

**ELDER ABUSE: PERSPECTIVES ON THE LEGAL SYSTEM**

**IS THERE JUSTICE FOR OLDER AUSTRALIANS?**

Wednesday 25 October 2006  
Arrow on Swanston, Melbourne



"In 22 years of investigating cases of elder abuse, you would think that I would have seen every possible scenario of abuse inflicted upon an older person.....and then the phone will ring with another case involving a different horror story. This is what I refer to as Man's Inhumanity to Man."

Lillian Jeter - Elder Abuse Prevention Association

## Seminar Program

We welcome you to this Legal Seminar  
which is proudly hosted by...



in partnership with our corporate sponsor...



## Morning Program

- 8:00 – 9:00 **Registration**, coffee and networking
- 9:00 – 9:20 **Welcome and Opening Address**  
**Hugh Lindsay**  
Manager of Social Work Services – Peter James Centre  
*Reminiscences of a Former R.A.T.S Member – The Progress We Have Made In 30 Years*
- 9:20 – 10:00 **Alistair Craig**  
Senior Corporate Lawyer, Corporate Legal Services – State Trustees  
*Financial Exploitation of Older Persons*
- Introduction of Senator Santoro**  
**Dr. Dennis Lowther**  
Professor Emeritus, Monash University  
Ministerial Advisory Council of Senior Victorians
- 10:00 – 11:00 **Keynote Address**  
**Senator The Hon Santo Santoro**  
Minister for Ageing  
*The Perspectives of a New Minister on the Issue of Elder Abuse*
- 11:00 – 11:30 **Morning Tea**
- 11:30 – 12:10 **Dr. David Sykes**  
Manager – The Office of the Public Advocate  
*Abuse Within the Family and the Dilemma of Protecting Those Who Do Not Lack Capacity*
- 12:10 – 12:45 **David Davis**  
Special Counsel – Dibbs Abbott Stillman Solicitors  
*Shut Down: What Happens When Systems Don't Work" – A Review of Legal Rights & Obligations of Residents, Family Members, & Facilities*

## Acknowledgments

This Legal Seminar could not have been possible without the tireless work of many people and its success can only be measured by the demonstrated commitment of those who have attended to addressing the underlying issues that contribute to the abuse of vulnerable older persons in our community.

Very special thanks to **Shane Murarenko** – Customer Marketing, State Trustees – for his diligence and professionalism throughout the planning & implementation stages of this seminar.

Special thanks to EAPA Board Members\* & Legal Seminar Committee Members for their commitment & efforts in making this a successful seminar:

|                |                 |                     |
|----------------|-----------------|---------------------|
| Kathy Day*     | Hugh Lindsay    | Tom Zeglinas*       |
| David Davis    | Dennis Lowther* | David Sykes         |
| Carmen Walker* | Monia Manzoori  | Simon Garner*       |
| Jim Drysdale*  | Tony Lack       | Vicky Triantaflaros |
| Len King       | Lillian Jeter*  |                     |

A big thank you to our contributors:

|                                    |                       |
|------------------------------------|-----------------------|
| State Trustees                     | Aveo Live Well        |
| ConvaTec Wound Therapies           | Alzheimer's Australia |
| HealthCare Solutions International | Carelinks Victoria    |

Finally, thank you to

Simon Garner - EFL Media – for the audio/visual production  
Peter Billing - EAPA Webmaster – programs, registration brochures



## David Davis Special Counsel

David was admitted as a Solicitor of the Supreme Court of Victoria and the High Court of Australia in 1987 and he practices in all aspects of estate, business succession planning and estate administration including estate litigation. He has represented and advised clients regarding VCAT hearings involving Powers of Attorney and capacity issues and aged care accommodation disputes

involving the Victorian Aged Care Complaints Scheme.

David's long connection with accountants, financial planners, trustee companies, the Public Advocate, health care professionals and other organisations ensure that he keeps abreast of current law and procedures regarding the preparation of Wills and Powers of Attorney, estate administration, trusts, tax, stamp duty and the care of incapacitated, elderly and dying clients.



## David Walsh Legal Practitioner

David has long experience of commercial dealings both in Australia and in the Asian region. Most recently, in Sri Lanka, David advised with respect to protective measures for a single, frail and elderly woman, uncovering significant fraudulent transactions on her accounts. On behalf of beneficiaries of an estate that had been in dispute for over 20 years, negotiated a commercial

result that has brought an end to long standing intra-family disputes together with an extremely beneficial financial result for all beneficiaries.

In Australia, David has practised as a barrister and solicitor in the ACT, NSW and Queensland. He is the immediate past Chairman of the ACT Law Society's Elder Law Committee, has published articles in the "Health Law Bulletin" and is a chapter author for "Halsbury's Laws of Australia" - most recently publishing the new chapter, "Nursing Homes".

David advises in the areas of asset protection, trusts, estate planning and intra and inter-generational dispute resolution.

## Afternoon Program

12:45 – 1:45 **Lunch**

1:45 – 2:30

### David Walsh

Legal Practitioner, ACT

Former Chairman ACT Law Society Elder Law Committee  
*Laws and Lawyers: Should We Be Doing More for Elders?*

2:30 – 3:15

### Lillian Jeter

Executive Director – Elder Abuse Prevention Association  
*Combating the Victimisation & Undue Influence of Vulnerable Older Persons*

3:15 – 3:30

### Afternoon Tea

3:30 – 4:15

### Simon Harrison

Partner – Nicol Robinson Halletts Lawyers

*Institutional Abuse in Residential Care Facilities: Criminal and Civil Considerations*

4:15 – 4:30

### Summary, Recommendations and Close

### Hugh Lindsay

Chairman – EAPA Legal Seminar Planning Committee

Financial abuse may occur with or without the person's knowledge. The person may be aware of the financial abuse, but does not have the support network or confidence to speak up."

Tony Fitzgerald - Managing Director of State Trustees



## Senator the Hon Santo Santoro Minister for Ageing Keynote Speaker

Senator Santo Santoro was sworn in as the Howard Government's fourth Minister for Ageing on 27 January 2006. Senator Santoro has been a Liberal member of the Australian Senate since October 2002, when he was selected by the Parliament of Queensland to fill a vacancy, following the resignation of Senator Hon Dr John Herron.

Prior to his appointment as a Minister, Senator Santoro served on several committees of the Australian Parliament, including:

- Chair - Joint Statutory Committee on the Australian Crime Commission;
- Voting member - Senate Regulations and Ordinance Committee;
- Voting member - Senate Environment, Communications, Information Technology and the Arts Legislation Committee;
- Voting member - Joint Standing Committee on Treaties.

Senator Santoro also fills the Honorary position of Editor of *The Conservative*, the pre-eminent right of centre journal of reform in Australian politics.

The Senator previously served for 12 years as a State MP in the Queensland Parliament (1989-2001) as Liberal member for Merthyr & Clayfield and as Deputy Leader, Parliamentary Liberal Party (1992-1995).

During this time he was Queensland's Minister for Training and Industrial Relations (1996-1998), as part of the Queensland Coalition Government, responsible for TAFE and Training, Industrial Relations, Trading Hours, Workers' Compensation and Occupation Health and Safety. In this role he introduced historic workplace relations and workers' compensation reforms, and oversaw major changes to the Occupational Health and Safety Act and the Trading Hours Act.

Before embarking on his parliamentary career, Senator Santoro gained two degrees from the University of Queensland (Bachelor of Arts and Bachelor of Economics), working part-time to pay his way. Following graduation Senator Santoro worked for a time in the private and public sectors, including time with an employer organisation, and in the health sector.



## Simon Harrison Partner

Simon is a partner at Nicol Robinson Halletts Lawyers and heads the firm's personal injury group. He is recognised as a leading personal injuries lawyer having undertaken a wide variety of high profile work both in Australia and internationally.

Simon brings to the partnership a wealth of

experience and understanding of client needs. He has been involved in numerous high profile cases, particularly in the areas of pharmaceutical litigation and chemical exposure, military and child assault claims.

Simon is a regular contributor to television, radio, newspaper and professional legal and non legal journals both in Australia and internationally.

"Undue influence is when people use their role and power to exploit the trust, dependency, and fear of others."

Margaret Singer - Clinical Psychologist



## David Sykes Office of the Public Advocate

David Sykes has a long-standing commitment to the rights of people with disabilities. He is currently the Manager of Policy and Education at the Victorian Office of the Public Advocate. Prior to this David had worked as an advocate at the Office of the Public Advocate for six years. He has been the co-ordinator of a Citizen Advocacy program and also has experience in the areas of

volunteer management, and workcare rehabilitation. He has a particular interest in seeking ways to effectively promote the rights of people with a disability, whilst also balancing this with the need to ensure adequate safeguards. His thesis developed a model of advocacy practice for use with people who have a cognitive disability.



## Lillian Jeter Elder Abuse Prevention Assoc.

Lillian Jeter was a law enforcement commander for almost 25 years in the United States. In 1985 Lillian uncovered a case of elder abuse and neglect that changed the community's whole perspective on the mistreatment of the elderly.

On 20 February 2006 with her appearance on

*Lateline* with Tony Jones and subsequently through various television, radio and media, Lillian exposed the plight of vulnerable older persons being abused and mistreated in nursing homes throughout Australia. Lillian is also a regular contributor on Charles Wooley's *Across Australia* radio show about the abuse of older Australians.

For the past 22 years, Lillian has presented keynote addresses, delivered presentations and conducted workshops for professional audiences in aged care, policy, legal, and criminal justice around the world on the abuse, neglect, mistreatment, and exploitation of vulnerable older persons. Not only did Lillian investigate cases of abuse in her capacity as a law enforcement officer but also was very influential in the development of policy, procedures, training guidelines, and interagency protocols. In 1986 she was a member of a multi-disciplinary team that met in Washington, DC to formulate and devise a template on elder abuse for the first time in the history of the United States to be delivered to all fifty states for law enforcement, adult protective services, legal entities, and aged care providers.

Her involvement with policy boards includes the International Chiefs of Police – Crimes Against the Elderly, Project Coordinator for the Police Executive Research Foundation on Domestic Violence, American Bar Association – Elder Abuse Committee, Police Executive Research Foundation – Crimes Against the Elderly Committee, Advisory Board Member for Family Services Inc. in family violence intervention and policy issues, and many more.

Lillian has also been instrumental in other policy implementation areas as well as accreditation as Deputy Director of the South Carolina Police Corps, Accreditation Manager for the Charleston Police Department, National Assessor for the Commission on Law Enforcement Accreditation, and Jail Administrator.

Senator Santoro is proud of his Italian origins, having been born in Sicily in 1956, and moved to Australia with his family at the age of five years.

He is married with two children, and lives with his family in Brisbane. He enjoys reading, walking, country driving, sea views and barracking for the Queensland Reds.



## Hugh Lindsay Peter James Centre

Hugh Lindsay has worked for many years as a social worker in the fields of hospital, psychiatric, local government and now back in hospital rehabilitation social work. He is manager of social work services at the Peter James Centre, a member of Eastern Health.

Whilst he was working for the former Mental Health

Division of the then Health Commission of Victoria, he was a member of the Regional Assessment Team Service, known as "RATS", a watchdog community group which monitored and assessed nursing and special accommodation houses, now known as SRSs.

RATS investigated and pursued many cases of residential abuse and presented submissions to Senate enquiries and State investigations. It was not always appreciated by bureaucrats as the organisations strove for residential protection and quality of life styles for elderly and disadvantaged people in care.

Residential care facilities have greatly improved since the era of RATS activities but there is always the ongoing goal of better quality care and policies that will improve the quality of people in residential facilities.

He considers that elder abuse community is at the same level of child abuse which was emerging into community consciousness some twenty-five years ago. The whole discussion of elder abuse will produce many different and strong sometimes contrary opinions of protection for the elderly which will be a good thing for the eventual protection of our aged.

Energetic discussion today should stimulate thought and hopefully action for good, safe and happy aged care.



## Dr Dennis Lowther Professor Emeritus Monash University

Dr Dennis Lowther specialises in marriage and relationships counselling, bereavement, and retirement counselling.

- Member - Australian Psychological Society
- Member - National Australian Society for Loss and Grief
- Grad Dip. Bereavement Counselling Cert. Adv. Counselling Skills (Cairnmiller Inst. 1995)
- Adv.Cert. Marriage & Relationship Counselling (Cairnmiller Inst.1995/6)
- BA (Hons) Sociology/Psychology (Monash University 1996)
- Grad.Dip. Bereavement Counselling (Monash Centre for Grief Education 2000)
- Accredited Loss and Grief practitioner (NALAG 2000)
- Retirement Counsellor & Seminar presenter - Australian Retired Persons Association (1997 – )
- Aged Care Counsellor- Strathdon Community Uniting Care (2005 — )
- Private Practice: Lifestyle Counselling Service, (Reg 2000)
- Member - Ministerial Advisory Council for Senior Victorians advising on a range of Health and Lifestyle matters to the Victorian State Government (2001– )
- Member - 'Working for all Ages' sub committee - Equal Opportunities Commission seeking to promote employment for older people.

Letter from Daughter whose Father was in Respite Care in NSW and beaten:

My family and I feel that with what has happened in the last few months needs to be reported as my father said "I spent 3 1/2 years as a prisoner of war with the Japanese and didnt have a bone broken." Amazing how our medical profession, in Australia can let this happen to him in 2006

Yours in absolute disgust.



## Alistair Craig Senior Corporate Lawyer

A senior lawyer with wide-ranging experience in financial services law, disability law, and estate planning and administration, Alistair provides in-house legal support for State Trustees in fulfilling its central roles of safe-guarding the financial well-being of vulnerable community members and providing estate and trust services to all Victorians.

He advises principally on the responsibilities of fiduciaries (executor, trustee, attorney, administrator) as well as the provision of financial services and products to clients. His expertise extends across estate planning, asset protection, investments and privacy. He has also given legal advice on all aspects of the management of the affairs of persons with a disability and conducted litigation to protect their interests.

Prior to his current corporate legal role, Alistair led the establishment of State Trustees' risk, regulatory and dispute-resolution frameworks in his capacity as Manager of Compliance and Risk Management. He has been responsible for numerous submissions to State and Federal government on a wide range of legislative issues, including financial services reform, trustee company and trust laws, guardianship law reform, enduring powers of attorney, and anti-money laundering and counter-terrorism financing.

With over fifteen years' experience in the trustee industry, Alistair has regularly presented on estate planning, trusts and disability law in the media and at public seminars.

Alistair was admitted to practice in 1991 and has a Bachelor of Arts (Honours) and a Bachelor of Laws from Monash University. His interests include languages and history.