

Elder Abuse: Prevention, Intervention, and Remediation

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About ABA COLA

The ABA Commission on Law and Aging is a collaborative and interdisciplinary leader of the American Bar Association's work to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of aging persons.

The Commission accomplishes its work through research, policy development, advocacy, education, training, and through assistance to lawyers, bar associations, and other groups working on issues of aging.

Key Lessons/Learning Objectives

- After attending, participants will be able to:
 - Describe the three stages of responses to elder abuse
 - Apply basic definitions of abuse, neglect, and exploitation
 - Identify risk factors or signs of abuse, neglect, or exploitation
 - Identify the differences between undue influence, exploitation, and fraud
 - Describe added risks in a time of COVID-19.

Three Stages of Responses to Elder Abuse

Responses to Elder Abuse

- Prevention
 - Planning for personal, health care, legal, financial matters including oversight and accountability as appropriate, will prevent most abuse
- Intervention
 - Action steps when a person has experienced abuse, neglect, or exploitation to stop ongoing maltreatment
 - Restore the person to a position of relative safety
 - Bring about justice
- Remediation
 - Steps that are taken after abuse, neglect, or exploitation to restore, dignity, autonomy, trust, quality of life.

Prevention

- Everyone plays a role in prevention
- Includes:
 - Advance planning
 - Careful selection of service providers, caregivers, supporters, and agents
 - Cautions on high-risk persons who have ongoing contact
 - Create oversight and accountability
- Newcomers and strangers can commit abuse
- Trusted persons can turn out to be untrustworthy

Intervention

- Steps taken to stop ongoing maltreatment
 - Not just criminal responses
- Can include:
 - Social Services interventions
 - Civil legal help
 - Adult Protective Services / Law Enforcement
 - Family and Community Response
 - Multidisciplinary Responses

Social Services Interventions

- Assessment of the person and overall circumstances
- Coordinating safety needs
- Coordinating services
- Coordinating material supports
- Emotional support
- Long Term Care Ombudsmen
- Learn More:
 - [National Association of Area Agencies on Aging](#)
 - [National Long-Term Care Ombudsman Resource Center](#)

Civil Legal Aid

- Seek orders of protection
- Create, modify, or revoke legal planning documents
- Assist with qualifying for benefits and programs
- Housing
- Consumer law
- Guardianship / conservatorship
- Seek return of assets
- Learn More:
 - [NCLER Elder Justice Toolkit](#)

Adult Protective Services

- The primary role of APS is to investigate and provide intervention services
- APS uses the state specific definitions to determine if abuse can be substantiated
- Substantiating abuse triggers availability of programs and services
- Abuse is abuse, even if it does not fit the state definitions
- Learn More:
 - [The Role of APS in Elder Abuse Cases](#)
 - [Adult Protective Services Technical Assistance Resource Center: Training, Resources, and TA](#)

Law Enforcement

- Investigate
 - Unique tools for investigation
 - The uniform and badge effect
- Enforcement of criminal laws – in collaboration with prosecutors
- Learn More:
 - EAGLE- [Elder Abuse Guide for Law Enforcement](#)
 - DOJ [Elder Justice Initiative](#)

Family & Community Response

- The majority of caregivers are family and friends
- Trusted family and friends can open doors
- Help from family and community to help to fill the gaps in government and benefits
- Housing
- Furniture
- Nutrition
- Personal care, maintenance, transportation
- Companionship and social connections

Multidisciplinary Responses

- There is seldom a single approach – it takes a village
- Multidisciplinary Teams
 - Bring together APS, Police, Prosecutors, Emergency Services, Social Services, Health Care, Legal Services
 - Goals
 - Multi-faceted understanding and investigation
 - Coordinate programs and services
 - Leveraging the strengths off all
- Learn More:
 - [DOJ Multidisciplinary Team Technical Assistance Center](#)

Remediation

- Efforts to restore or preserve trust, dignity, autonomy, quality of life
 - Ongoing supports and services
 - Restorative Justice efforts
 - Ongoing counseling or therapies
 - Civil recovery of assets, damages
 - Restoration of rights
 - Revision of legal planning as needed
- Learn More: [Elder Justice Toolkit- Litigation & Non-Litigation Remedies](#)

Cultural Awareness

Cultural Awareness Factors

- Persons with a personal, family, or cultural history of mistreatment may be resistant to reporting to APS or law enforcement or may turn away offers of help
- Experiences of racism and discrimination in public services, health care, & law enforcement may contribute to resistance of reporting or accepting help

Applying Trauma-Informed Lawyering Practices

- Validate the fears
- Ask the person who can help
 - Who they are comfortable with
 - Who they trust
- Avoid trying to rationalize or defend programs or services the person is uncomfortable with
- Work to support people and organizations that the person trusts
 - Start today to heal the past, and create trust in your community
- Learn more: [Introduction to Trauma-Informed Lawyering](#)

Definitions of Abuse

Elder Abuse or Adult Abuse?

- Most state laws cover adults who are vulnerable as defined in the statute
 - Vulnerability is based on limited ability to defend oneself from harm
 - Some still create categorical vulnerability based on age
- For data collection, APS, or criminal prosecution, age is much easier to prove

2016 Centers For Disease Control Uniform Definitions For Data Collection Purposes

- Goal was uniform data collection
- Elder Justice Act Collaboration
- Each state has state specific definitions
 - The state definitions empower Adult Protective Services to provide help
 - State definitions in some states are used in criminal prosecution
- A crime is a crime even if not in the adult abuse statute

Physical Abuse

- Physical Abuse: The intentional use of physical force that results in acute or chronic illness, bodily injury, physical pain, functional impairment, distress, or death.



Signs of Physical Abuse

- Physical injuries: bruises, scratches, abrasions
- Broken bones or sprains
- Circular Burns (cigarette burns)
- Redness or scalding of the skin, especially on the back, bottom of the legs, buttocks, back of the arms
- Ligature marks on the wrists, ankles, or around the waist
- Signs of malnutrition or dehydration
- Over or under-medication
- Broken or missing eyeglasses or dentures

Behavioral or Emotional Signs of Physical Abuse

- Frequent emergency room visits
- Reluctance to seek medical care for injuries
- Dismissive explanation of injuries
- Refusal by family or caregivers to allow the person to be alone with you
- Isolation of the person by family, friends, or caregivers
- Changes in social contacts
- Unexplained changes in behavior such as withdrawal
- Emotional discomfort with the presence of a person or when talking about a person

Sexual Abuse

- Sexual Abuse: Forced and/or unwanted sexual interaction (touching and non-touching acts) of any kind with an older adult.

Physical Signs of Sexual Abuse

- Bruises around the breasts or genitals
- Bruising or abrasions in or around the mouth
- Torn or bloody clothing or bedding
- Unexplained vaginal or anal bleeding
- Sexually transmitted infections
- Pregnancy in younger adults

Behavioral and Emotional Signs of Sexual Abuse

- Inappropriate interactions between the person and caregivers, friends, or family members
 - Unusual signs of affection, touching, words
- Behavioral changes such as withdrawal or fear
 - Look for changes
- Sudden changes in emotional state or aggression
 - People may fight back, striking out against everyone
- Increased shyness around familiar persons
 - Hesitancy about showering or bathing
 - Hiding – covering up

Emotional/Psychological Abuse

- Emotional / Psychological Abuse: Verbal or nonverbal behavior that results in the infliction of anguish, mental pain, fear, or distress, that is perpetrated by a caregiver or other person who stands in a trust relationship to the elder.

Emotional and Behavioral Signs of Emotional Abuse

- Changes in behavior, such as withdrawal, depression or fear
- Behaviors such as rocking, nail biting, thumb sucking, mumbling to themselves
- Nervous or fearful behavior
- Inappropriate emotional responses or changes in emotional responses
- Withdrawal from social activities
- Unexplained changes in sleep patterns
- Isolation by caregiver or family members

Neglect

- Neglect: Failure by a caregiver or other person in a trusted relationship to protect an elder from harm or the failure to meet needs for essential medical care, nutrition, hydration, hygiene, clothing, basic activities of daily living or shelter, which results in a serious risk of compromised health and/or safety, relative to age, health status, and cultural norms.

Signs of Neglect

- Food
 - Appropriate nutrition and hydration
 - Unsafe food in the home
- Shelter
 - Homeless
 - Unsafe housing
- Clothing
 - Inappropriately dressed for the weather
 - Clothing that is dirty or worn to the point of being unsafe
- Medical care
 - Failure to provide or seek basic health care – consistent with the persons values or history

Self-Neglect: Legal or Social Issue?

- Self-neglect is not included in the CDC uniform definitions
- Many states include self-neglect in their definitions of adult abuse to empower Adult Protective Services to help
 - Some states narrow the definition to persons who are unable to understand the imminent risk to health and safety, allowing a legal intervention without consent.
- Most self-neglect occurs long before the person gets to the point of being unable to discern the risk
- Self-neglect with understanding – is a social or decision support issue
- Family and community resources to encourage self care, programs and services to fill unmet needs.
- Learn more: [Self-Neglect & Hoarding Disorders](#)

Financial Abuse/Exploitation

- Financial Abuse / Exploitation: The illegal, unauthorized, or improper use of an older individual's resources by a caregiver or other person in a trusting relationship, for the benefit of someone other than the older individual.

Signs of Financial Exploitation (1 of 2)

- Unmet needs, or unpaid expenses, despite seemingly adequate income and assets
- Missing financial statements
- Missing personal property
- Unusual banking activity or credit/debit card usage
- Paying for goods or services that are not provided
- Unexplained purchases of “gift cards” or stored value cards
- Wire transfers

Signs of Financial Exploitation (2 of 2)

- Unusual deliveries of mail, UPS, or express delivery services
- Unusual emails, phone calls, and other communications
- The person suddenly expecting a windfall
- Frequent or rapid turnover of investments or inappropriate investments
- New friend, or advisor in the person's life, followed by changes in behavior
- Adding names to financial accounts
- Changing agent on a power of attorney, or documents missing
- Sudden or unexplained changes in estate plans

Culture Awareness: Finances

- Cultural traditions of sharing of resources within a family or cultural unit, are sometimes mistaken for financial exploitation
 - Ask, seek out cultural leaders for input
- Cultural traditions of reverence for elders
 - Reinforce that failing to meet the needs of an elder is disrespectful to that elder

Learn More: Signs of Elder Abuse, Neglect, & Exploitation

- [Signs of Abuse, Neglect & Exploitation: The Checklist](#)
- [Service Providers & Systems Working to Address Elder Abuse](#)

Financial Exploitation, Undue Influence, and Fraud

- Financial Exploitation
 - The unauthorized use or taking of the money or property of a vulnerable adult for the benefit of another person.
- Undue influence
 - The exertion of influence, over a vulnerable adult, with the intent to override or change the choice or free will of the person, for the benefit of another person.
- Fraud
 - A theft involving an intentional lie or misstatement of the fact, with the intent that the person will rely on it to the benefit of another person.

Facets of Financial Exploitation, Undue Influence, and Fraud

R=Required O= Optional	Vulnerability	Person in a position of power or influence	Intentional lie, or material misstatement of fact	Theft or use of money or property for the benefit of another
Financial Exploitation	Required	Optional	Optional	Required
Undue Influence	Required Must have capacity	Required	Optional	Required
Fraud	Optional	Optional	Required	Required

Impact of COVID-19

COVID-19 and Abuse

- Isolation:
 - Isolation is a tool used by persons who commit abuse and exploitation
 - Social Distancing normalizes isolation
- Family, close friends, and caregivers are the highest risk of being abusers
 - The persons we are most likely to be isolated with

Financial Exploitation and COVID-19

- Social Distancing—fewer opportunities to observe signs of exploitation
- COVID-19 related scams target seemingly vulnerable populations
- Some financial exploitation is to meet financial need of the abuser
 - Financial downturns increase the risk

Neglect and COVID-19

- Caregiver neglect
 - Caregivers who are sick or who fear for their safety
 - Insufficient care in residential settings
 - Short staffing in inpatient care
 - Isolation in residential settings
- Self-Neglect
 - With less interaction, self-neglect can be harder to spot

Elder Justice Resources

- [National Center on Elder Abuse](#)
- [APS Technical Assistance Resource Center](#)
- [National Long-Term Care Ombudsman Resource Center](#)
- [DOJ Elder Justice Initiative](#)
- [National Clearinghouse on Abuse in Later Life](#)

Thank You!
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Elder Justice Toolkit

NATIONAL
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RIGHTS**

Elder Justice Toolkit

Practice-oriented, national online resource with information on pursuing civil legal remedies in elder abuse cases, practice tips, and sample documents for attorneys.

Contribute to the Toolkit! Customize a state-specific financial exploitation guide, or share your documents, letters, and pleadings at ConsultNCLER@acl.hhs.gov.

ncler.acl.gov



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<https://ncler.acl.gov/ElderJustice-Toolkit/About-Elder-Justice-Toolkit.aspx>

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Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.