

# Elder Abuse in People Living with Dementia

Considerations for Prevention, Detection, and Intervention

Laura Mosqueda, MD  
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Part of the National Alzheimer's and Dementia Resource Center webinar series sponsored by the Administration for Community Living.

# ACL's Dementia Program Cooperative Agreement Open for Applications

- AoA's [Alzheimer's Disease Programs Initiative - Grants to States and Communities, and Indian Country](#) program announcements (HHS-2021-ACL-AOA-ADPI-0086 and HHS-2021-ACL-AOA-ADPI-0104) are **now open** for applications!
  - Use the link above to view the opportunity or go to <https://www.grants.gov/> and search Alzheimer's Disease Programs Initiative (ADPI)
  - **Application deadline for *Dementia Capability in Indian Country* is July 19, 2021**
  - **Application deadline for *States and Communities (Round 2)* is August 2, 2021**
- Goal of these projects is to support and promote the development and expansion of dementia-capable home and community-based service (HCBS) systems in **States and Communities or Indian Country**.
- Contact Erin Long for more information: [erin.long@acl.hhs.gov](mailto:erin.long@acl.hhs.gov)



# Elder Abuse in People Living with Dementia: Considerations for Prevention, Detection, and Intervention

Laura Mosqueda, M.D.  
Professor of Family Medicine and Geriatrics

# The Person Living with dementia:

- May be unable to recognize abuse
- May be unable to report abuse
- May not be believed
- May not be recognized as having a dementia

# Types of Abuse

- Financial Exploitation
- Abuse (physical, sexual, emotional)
- Neglect

Multiple types of abuse often co-exist  
(polyvictimization)

# Abuse is more common than most people realize

- About 1 in 10 older adults who live in the community are abused or neglected
- About 1 in 2 older adults living with dementia are abused or neglected
- We really don't know how common abuse and neglect are in nursing homes and assisted living arrangements

# Abuse in people living with dementia

- MCI= Mild Cognitive Impairment = *Minor Neurocognitive Disorder*
- Dementia = *Major Neurocognitive Disorder*
- One in two people living with dementia will experience a type of abuse
- Distinguish between understanding or empathizing with the caregiver's situation and blaming the victim

# Screening for Abuse and Neglect of People Living with Dementia

Wiglesworth A, Mosqueda L, Mulnard R, Liao S, Gibbs L, Fitzgerald W. Screening for abuse and neglect of people with dementia. *Journal of the American Geriatrics Society*. 2010 Mar;58(3)493-500.



# Methods

- 129 People living with dementia and their caregivers were assessed for evidence of mistreatment as well as factors that might be related to mistreatment.
- Most of the data were provided by the caregivers.

# The Findings

- 47% of participants with dementia (61) had been mistreated by their caregivers.
  - 42% (54) experienced psychological abuse
  - 10% (13) physical abuse
  - 14% (18) caregiver neglect

# Characteristics of the Person Living with Dementia associated with mistreatment

- More psychological aggression\*
  - For example, swearing at the caregiver
- Any physical assault behaviors\*
  - For example, pushing or shoving the caregiver

\* It is important to note that the study does not determine whether these behaviors preceded or followed the mistreatment.

# Caregiver characteristics associated with mistreatment

- Higher anxiety
- More depressive symptoms
- Fewer social contacts
- Greater perceived burden
- Two other measures of poor emotional well-being from a widely used survey (SF12).

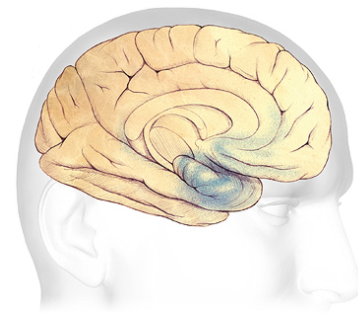
# Conclusions

- About half of people living with dementia are being mistreated, usually by a family member.
- Screening of these individuals is essential.
- Caregivers can be questioned to find out about mistreatment & they will admit to it.

# Implications

- Caregivers should be asked about the behavior of the person living with dementia.
- Based on their responses, follow-up questions about their own behavior may bring mistreatment to light.

# Early AD



## Symptoms:

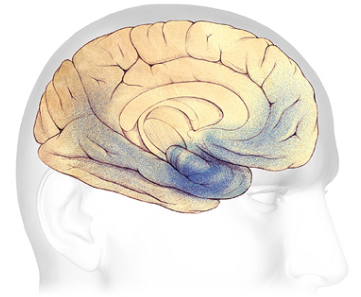
- Short term memory
- Words
- Judgment

## Dilemmas:

- Driving
- Finances

**financial abuse**

# Mid AD



## Symptoms:

- Behavior
- Dressing
- Insight

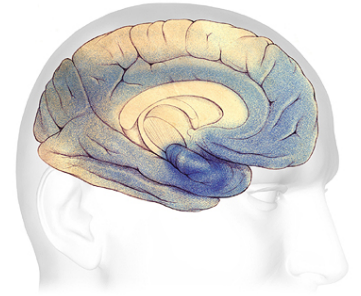
## Dilemmas:

- Explaining
- Moving

**physical abuse**



# Late AD



## Symptoms:

- Communication
- Mobility
- Swallowing

## Dilemmas:

- Risk/benefit
- Nutrition

**neglect**

# High Risk Caregiving Situations

- Caregivers with inadequately treated mental health and/or substance abuse problems
- Caregivers who feel stressed/burdened
- Care recipient who is physically combative and/or verbally abusive

# AIM

## Abuse Intervention/Prevention Model

- Messy desk hypothesis
- Three domains
- Factors known or thought to be related to risk of abuse in each domain
- Discern modifiable vs nonmodifiable risk factors

Mosqueda L, Burnight K, Gironde MW, Moore AA, Robinson J, Olsen B. The Abuse Intervention Model (AIM): A pragmatic approach to intervention for elder mistreatment. *J Am Geriatr Soc*, Aug 2016.

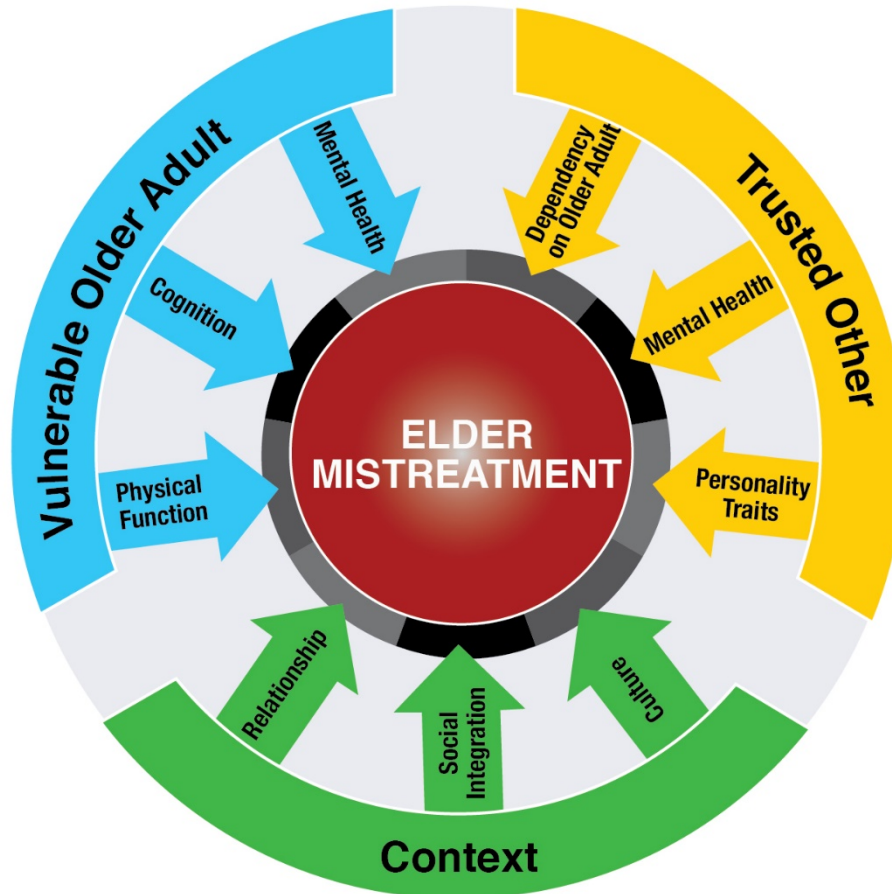
# Abuse Intervention Model (AIM)

**Vulnerable Older Adult**

**Trusted Other**

**Context**

# Generic AIM Model



Mosqueda L, Burnight K, Gironda MW, Moore AA, Robinson J, Olsen B. The Abuse Intervention Model (AIM): A pragmatic approach to intervention for elder mistreatment. *J Am Geriatr Soc*, Aug 2016

# AIM Risk &/or Associated Factors

## Adults with Dementia

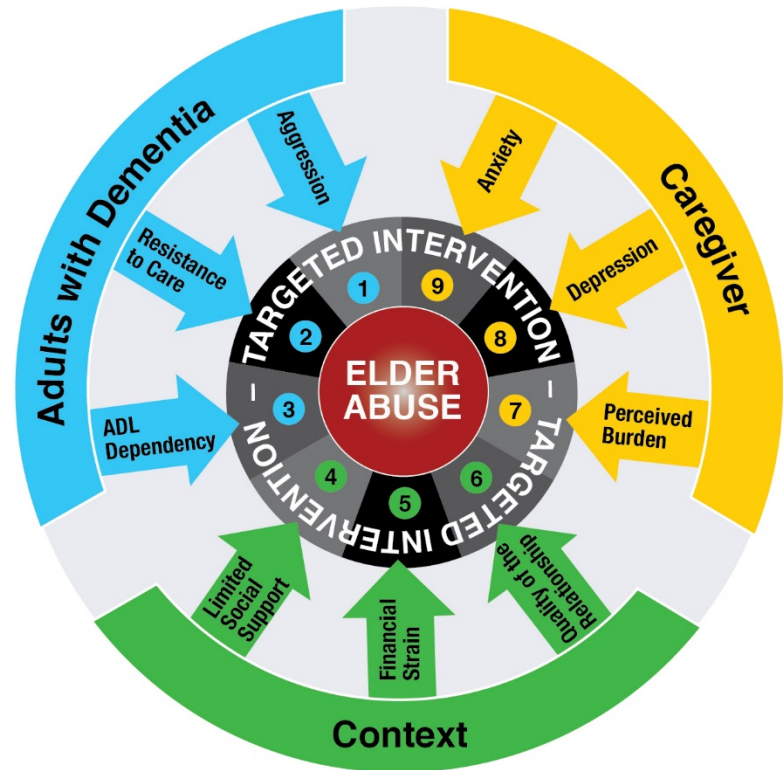
- Aggressive behavior
- Resistance to care
- ADL dependency

## Caregiver

- Anxiety
- Depression
- Perceived burden

## Context

- Social support
- Financial situation
- Quality of relationship



# Moving towards

- Prevention
- Intervention
- Amelioration
- Treatment/care

# Resources at USC

## Training Resources on Elder Abuse

<https://trea.usc.edu/>

## The USC Center on Elder Mistreatment

<https://eldermistreatment.usc.edu/>



# The National Center on Elder Abuse (NCEA)

[ncea.acl.gov](http://ncea.acl.gov)

Stay current with:

- Elder Abuse Bytes e-newsletter
- Elder Abuse Listserv
- Technical Assistance
- Training Materials
- Factsheets
- Educational Materials

# The National Center on Elder Abuse (NCEA)

We improve the national response to elder abuse, neglect and exploitation by gathering, housing, disseminating, and stimulating innovative, validated methods of practice, education, research and policy.

<https://ncea.acl.gov>



NationalCenteronElderAbuse

@NCEAatUSC



Thank you!

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# Elder Abuse: Legal Strategies for Prevention, Intervention and Remediation for People Living with Dementia

Charles P Sabatino

NADRC Webinar

June 23, 2021



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Law and Aging

# My Outline

1. Three Stages of Response to Abuse, Neglect & Exploitation (ANE)
2. APS Laws
3. Financial Exploitation
4. Durable Power of Attorney Abuse
5. Legal Remedies

# Responses to Elder Abuse

- Prevention
  - Planning for personal, health care, legal, financial matters including oversight and accountability as appropriate and supported decision-making.
- 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
- 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

The more eyes the better

- 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:
  - Family and Community Response
  - Social Services interventions
  - Multidisciplinary Responses
  - Civil legal help
  - Adult Protective Services / Law Enforcement



# 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 with client consent.
- May trigger guardianship if lack of capacity determined
- Abuse is abuse, even if it does not fit the state APS definitions or eligibility

# 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 Sensitivity

- Resistance to accepting help may have multiple personal, psychological, social & cultural causes.
- History of racism and discrimination in public services, health care, law enforcement contribute.
- Cultural variations in:
  - What is normal behavior
  - Family roles & authority
  - Weighing of risk factors
  - Perceptions of what it means to accept help or services
  - Perception of your role as outsider or government or different caste



# 50 States – 50 Laws

Each state creates elder abuse laws:

- Defining elder abuse
- Defining who is eligible for services from Adult Protective Services
- Establishing guidelines for mandatory and permissive reporting
- Describing a framework for Adult Protective Services and Law Enforcement

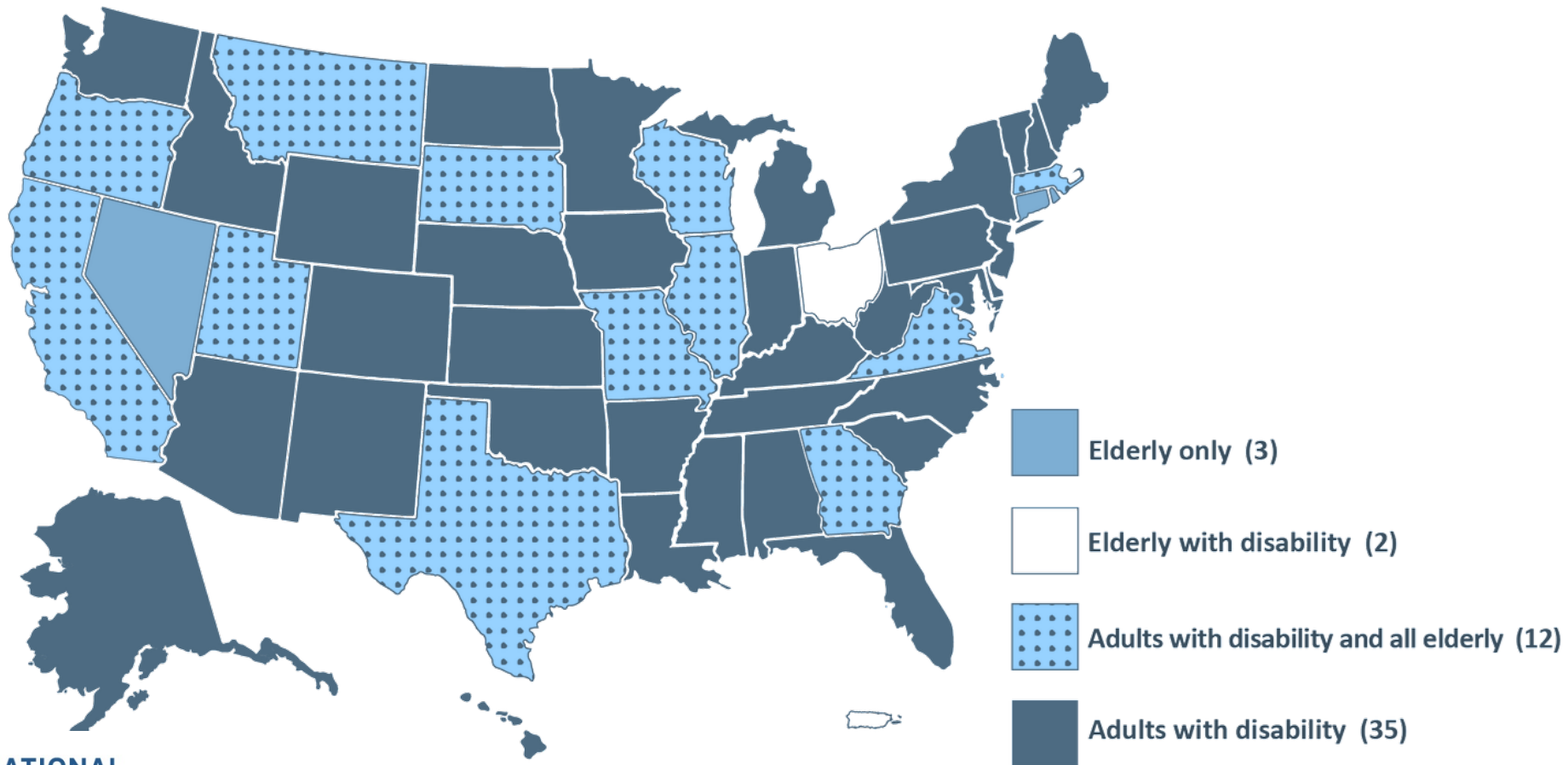
See Laws Related to Elder Abuse charts on  
[ABA Elder Abuse webpage](#)



# Even What to Call This Differs

- Elder Abuse
- Adult Abuse
- Vulnerable Adult Abuse

# APS Eligibility is a Combination of Age and Disability



# APS Investigations in Residential Facilities

- In 38 states, APS investigates allegations of ANE when they occur in at least some types of residential facilities. Some state policies specify which types of facilities (e.g., licensed or unlicensed), while others are more general.
- In 14 states, APS never investigates allegations of ANE in facilities.
- In 4 states, extant materials reviewed did not provide information about investigations within facilities.

# Types of Reporting Requirements by State (1 of 2)

- Universal reporting
  - Everyone is required to report suspicion of ANE.
- Mandated list of reporters
  - Certain categories of individuals required to report
  - Medical and law enforcement communities are by far the most frequent mandated reporters.
  - Details of who is mandatory reporter varies widely
- A combination of universal and mandatory
  - Everyone is required to report, and certain categories are also specifically cited.
- All states protect the confidentiality of the reporter.





# Financial Abuse/Exploitation

Financial 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.

# 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.
- 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.
- 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.

# Signs of Financial Exploitation (1 of 2)

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

# Signs of Financial Exploitation (2 of 2)

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

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

- [Signs of Abuse, Neglect & Exploitation: The Checklist](#) - ABA/NCLER Checklist
- [Red Flags of Elder Abuse](#) - DOJ Elder Justice Initiative
- [Managing Someone Else's Money](#) - Consumer Financial Protection Bureau lay fiduciary guides.

# COVID-19 and Abuse

## -- the perfect storm --

- Isolation:
  - Tool used by persons who commit abuse & exploitation
  - Closure of group events & social distancing normalizes isolation
  - Isolation in nursing homes shields abuse and neglect – fewer opportunities to observe
  - Self-neglect more likely to occur unseen
- Economic downturn -- financial need of family abuser may be a driving factor
- New government help initiatives -- give rise to COVID-related scams (economic benefits, testing & vaccine scams, charity scams, etc.)



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# Power of Attorney Abuse

An essential planning document  
with risks and benefits

- Abuse can happen at two points in time:

(1) In creating of the POA:

- Incapacity at execution
- Forgery/Fraud/Misrepresentation
- Undue influence

# Power of Attorney Abuse (continued)

## (2) In implementing the POA

- Transactions exceeding intended authority
- Transactions conducted for self-dealing
- Transactions contravening principal's expectations



# Preventing POA Abuse

Consider:

1. Requiring initial inventory & annual accountings to a 3rd person(s).
2. Requiring a second signature for large transactions.
3. Granting a power to revoke to a trusted 3rd person.
4. Limit power to make gifts and power to change beneficiary designations. (“Hot powers”)



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## Drafting POAs (continued)

Also, be very cautious about other “hot powers” – i.e., power to:

- 1) Create or change rights of survivorship
- 2) Create, amend, revoke, or terminate a trust
- 3) Delegate agent’s authority
- 4) Waive principal’s rights under a joint and survivor annuity, including survivor benefit under a retirement plan
- 5) Disclaim property, including a power of appointment



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# MANAGING SOMEONE ELSE'S MONEY

Help for agents under a  
power of attorney

**cfpb**

Consumer Financial  
Protection Bureau

# Duties of All Fiduciaries

1. Act only in your family member or friend's best interest
2. Manage the money and property carefully
3. Keep the money and property separate from yours
4. Keep good records.



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# Civil Remedies Prevention

- Revocation (of a POA or contract)
- Divorce or legal separation
- Protection/restraining orders
- Injunctions
- (Limited) Guardianship/conservatorship

# Civil Actions: Asset Recovery

Actions for:

- Accounting
- Breach of fiduciary duty
- Conversion
- Fraud/Duress
- Rescission
- Private right of action for Elder Abuse?

Remedies may include:

- Restitution
- Constructive Trust
- Damages





# Civil Remedies: Challenges

- Slow pace & customary delays
- Evidence & witnesses may be unavailable
- Victim may lack capacity to testify
- Proving lack of capacity may be difficult
- Proving undue influence may be difficult
- Victim may lack money for lawyer
- Perpetrator may lack money for restitution

# Criminal Remedies

- Increasing recognition as a crime
- Increasing involvement of law enforcement
- Increasing involvement of prosecutors
- Courts changing procedures
- Legislatures strengthening laws

Thanks in part to the  
Elder Justice Act (2010) &  
Elder Abuse Prevention and Prosecution Act  
(2017)



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# Elder Justice Toolkit

NATIONAL  
CENTER ON  
**LAW &  
ELDER  
RIGHTS**

## Elder Justice Toolkit

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

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

[ncler.acl.gov](https://ncler.acl.gov)



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

# Find Help Near You or Report Abuse

- [Eldercare Locator](#) 1-800-677-1116 and to be linked to local resources in your area.
- [Elder Justice Initiative](#) for resources, National Elder Fraud Hotline and information on reporting elder abuse to Adult Protective Services.



# Questions and Funding Opportunity Reminder

Thank you for your attendance today. Please enter questions for the speakers into the Q/A Chat pod.

- Reminder: AoA's [Alzheimer's Disease Programs Initiative - Grants to States and Communities, and Indian Country](#) program announcements (HHS-2021-ACL-AOA-ADPI-0086 and HHS-2021-ACL-AOA-ADPI-0104) are **now open** for applications!
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