



# The Benefits of Referring Elder Abuse Clients for Civil Legal Assistance

JUNE 1, 2018

DEPARTMENT OF JUSTICE  
**ElderJustice**  
INITIATIVE



**OVCTTAC**  
OFFICE FOR VICTIMS OF CRIME Training and Technical Assistance Center



# TECHNICAL OVERVIEW

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- ▶ If you are experiencing any technical issues with the audio for this session, please let us know in the feedback box.
- ▶ If you have technical difficulties during the webinar, contact Kaila Hough, who is providing technical support for this webinar. Her email address is [Khough@ovcttac.org](mailto:Khough@ovcttac.org).
- ▶ Today's session will be recorded and made available on the training website.
- ▶ If you have questions, type them in the feedback box. We will address as many as possible throughout the webinar.

# ELDER JUSTICE INITIATIVE

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The **mission** is to support and coordinate the Department of Justice's enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target older adults.

The Initiative does so by—

- Promoting justice for older adults.
- Helping older victims and their families.
- Enhancing state and local efforts through training and resources.
- Supporting research to improve elder abuse policy and practice.

# ELDERJUSTICE.GOV

**You're fighting elder abuse on the front lines. We've got your back.**

The mission of the Elder Justice Initiative is to support and coordinate the Department's enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target our





# PRESENTERS

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## **Bill Benson**

National Policy Advisor

National Adult Protective Services Association

## **Jennifer Goldberg**

Directing Attorney

Justice in Aging and National Center for Law and Elder Rights

## **Keith Morris**

President, Elder Law of Michigan

Director, Center for Elder Rights Advocacy



# APS & Civil Litigators: Allies in the Fight Against Elder Abuse

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# About NAPSA

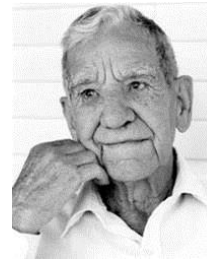
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Formed in 1989 as a national association for adult protective services (APS) professionals.

Strengthen APS via—

- Education
- Research
- Advocacy

Also the home to **NIEFE**  
(National Institute on Elder  
Financial Exploitation).



# About APS

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- In most states, APS serves those age 60+ and adults ages 18–59 with a disability.
- In all states, APS investigates community cases (in some states, it also investigates nursing homes).
- Some APS agencies are state-administered, some county-administered.
- Serves as a social service response to elder abuse.
- Receives abuse reports and attempts to remedy or reduce abuse.
- Works with law enforcement, criminal justice, area agencies on aging, etc.



# APS & Civil Litigators

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- **Project team:** California Advocates for Nursing Home Reform (CANHR), National Adult Protective Services Association (NAPSA), Health Benefits ABCs (HBABCs)
- **Question:** What does APS do when it encounters/suspects that financial abuse has occurred?
  - Contact law enforcement? Then what?
  - Suggest a civil attorney? Then what?

# California Survey of APS

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- Survey of California counties on referral and use of the civil litigation process on financial exploitation
- 24 of 58 counties responded
- Average number of reports received (2014): 4,448
- Average number of reports alleging financial abuse or exploitation: 1,570
- Case outcomes more likely to result in financial consequences for the perpetrator than in restitution for the victim or criminal consequences for the perpetrator.

# California Survey of APS

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- **Referrals** In reports alleging financial exploitation, programs were:
  - **Most likely** to make a report to law enforcement.
  - **Least likely** to make a referral to a civil attorney. (One county had a policy against referrals to civil attorneys.)
- **Referrals to Civil Attorneys**
  - Did not know how many cases referred to civil attorneys were successful.
  - 40% were neither satisfied nor dissatisfied with the handling of financial abuse cases by civil attorneys.
  - 40% were somewhat satisfied.
- **Training on Civil Law**
  - 21% said their APS program provides training on civil law and restitution.
  - 91% were interested in such training.

# National Survey of APS

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- Similar survey done nationally
- 24 states and Guam responded
- Average number of reports received (2014): 11,413
  - Average number of reports alleging financial exploitation: 1,603
- Case outcome data were unavailable for more than 80% of responses on restitution, financial consequences for the perpetrator, and criminal consequences for the perpetrator.
  - Most programs do not follow a case beyond the APS system.

# National Survey of APS

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- **Referrals** In reports alleging financial exploitation, programs were:
  - **Most likely** to refer the case to law enforcement.
  - **Least likely** to refer to the state bar association's Lawyer Referral Service.
- **Referrals to Civil Attorneys**
  - Did not know how many cases referred to civil attorneys were successful.
  - 55% were neither satisfied nor dissatisfied with the handling of financial abuse cases by civil attorneys.
  - 22.2% were somewhat satisfied.
- **Training on Civil Law**
  - 30% said their APS program provides training on civil law and restitution.
  - 86% were interested in such training.

# Pilot Trainings: APS & Civil Litigators

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- Trainings to introduce APS workers, ombudsmen, and legal services professionals to the work of civil litigators in cases of financial exploitation:
  - Sacramento
  - San Diego
  - San Francisco
  - Los Angeles



# Evaluation of Trainings

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- Reviews were positive, with most saying that the training would make a difference in their work.
- Trainings raised understanding of the Lawyer Referral Service (LRS).
  - In 2 of the 3 trainings, more than half of the evaluators were unfamiliar with LRS prior to the training.
  - In one training, 1/3 of evaluators were unfamiliar with LRS prior to the training.

# 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 NCLER through a contract with the Administration for Community Living's Administration on Aging.

# Why offer civil legal help?

- Civil legal assistance can provide unique interventions and remedies for victims of elder abuse.
- Potential civil remedies can include—
  - Obtaining protective orders
  - Evicting a perpetrator from the home
  - Freezing bank accounts
  - Revoking or changing powers of attorney
  - Terminating guardianship
  - Rescinding contracts

# Civil Legal Assistance

- Legal assistance through civil legal aid
  - Varied sources of funding such as the Legal Services Corporation, Title IIIB of the Older Americans Act, or foundations
- Private bar
  - May include solo practitioners, small or large firms
- Sanctioned referral services
  - Such as bar association lawyer referral services

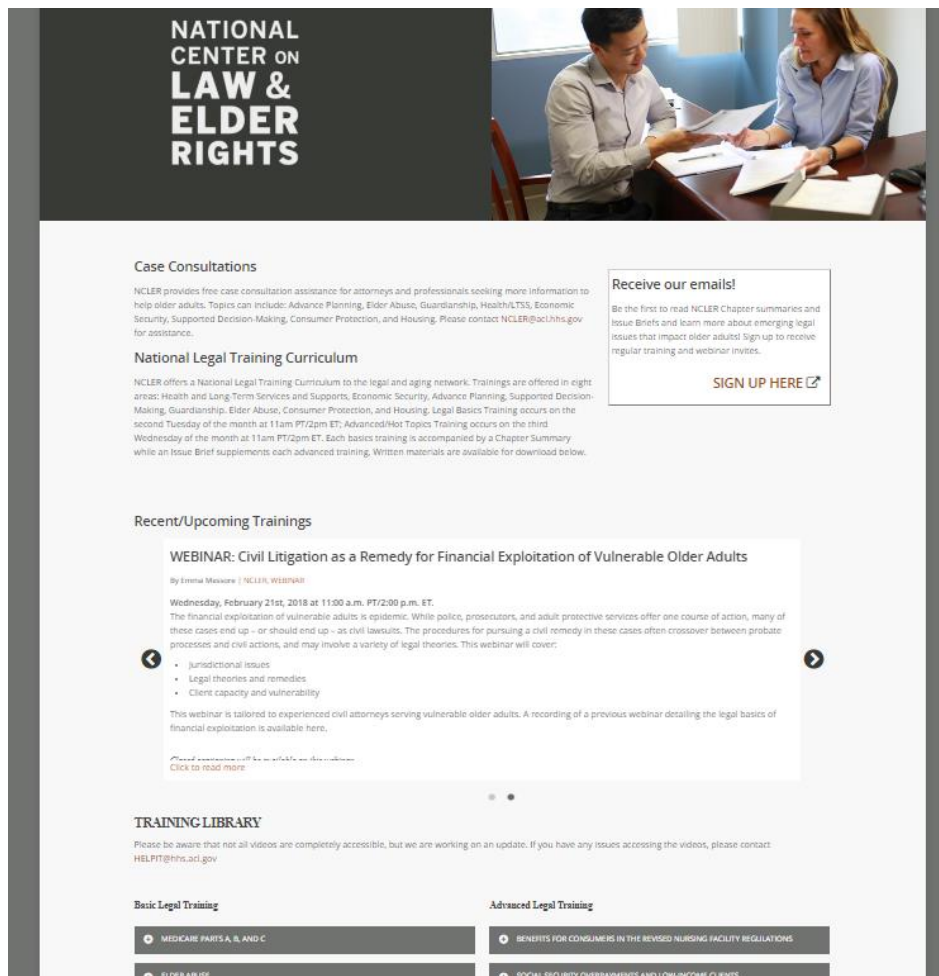
# Considerations for referrals



# Visit Our Website: [NCLER.acl.gov](https://NCLER.acl.gov)

- Learn about upcoming NCLER trainings
- Access all materials from past trainings, including webinar recordings
- Sign up for our email list
- Email us for case consultations:

[ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov)



**NATIONAL CENTER ON LAW & ELDER RIGHTS**

**Case Consultations**  
NCLER provides free case consultation assistance for attorneys and professionals seeking more information to help older adults. Topics can include: Advance Planning, Elder Abuse, Guardianship, Health/LTSS, Economic Security, Supported Decision-Making, Consumer Protection, and Housing. Please contact [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov) for assistance.

**National Legal Training Curriculum**  
NCLER offers a National Legal Training Curriculum to the legal and aging network. Trainings are offered in eight areas: Health and Long-Term Services and Supports, Economic Security, Advance Planning, Supported Decision-Making, Guardianship, Elder Abuse, Consumer Protection, and Housing. Legal Basics Training occurs on the second Tuesday of the month at 11am PT/2pm ET. Advanced/Hot Topics Training occurs on the third Wednesday of the month at 11am PT/2pm ET. Each basics training is accompanied by a Chapter Summary while an Issue Brief supplements each advanced training. Written materials are available for download below.

**Recent/Upcoming Trainings**

**WEBINAR: Civil Litigation as a Remedy for Financial Exploitation of Vulnerable Older Adults**  
By Emma Moore | NCLER WEBINAR  
Wednesday, February 21st, 2018 at 11:00 a.m. PT/2:00 p.m. ET.  
The financial exploitation of vulnerable adults is epidemic. While police, prosecutors, and adult protective services offer one course of action, many of these cases end up – or should end up – in civil lawsuits. The procedures for pursuing a civil remedy in these cases often crossover between probate processes and civil actions, and may involve a variety of legal theories. This webinar will cover:

- Jurisdictional issues
- Legal theories and remedies
- Client capacity and vulnerability

This webinar is tailored to experienced civil attorneys serving vulnerable older adults. A recording of a previous webinar detailing the legal basics of financial exploitation is available here.

**TRAINING LIBRARY**  
Please be aware that not all videos are completely accessible, but we are working on an update. If you have any issues accessing the videos, please contact [HELP@hhs.acl.gov](mailto:HELP@hhs.acl.gov)

**Basic Legal Training**

- MEDICARE PARTS A, B, AND C
- ELDER ABUSE

**Advanced Legal Training**

- BENEFITS FOR CONSUMERS IN THE REVISED NURSING FACILITY REGULATIONS
- SOCIAL SECURITY OVERPAYMENTS AND LOW-INCOME CLIENTS



Q & A



# Questions & Suggestions

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## **Elder Justice Initiative**

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**Website: [www.elderjustice.gov](http://www.elderjustice.gov)**



