The Benefits of Referring Elder Abuse Clients for Civil Legal Assistance

JUNE 1, 2018

DEPARTMENT OF JUSTICE
Elder Justice Initiative

JUSTICE FOR VICTIMS OF CRIME
Office for Victims of Crime

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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.

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

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.
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 Nation's seniors.

Outreach Materials
Get involved, get safe community presentations, pamphlets, and materials on all types of elder abuse.

Prosecutor Video Series
Training videos geared toward successful prosecution of elder abuse cases.

Elder Abuse Research
References to articles, books, and government reports on all types of elder abuse and financial exploitation topics.

MDT Guide & Toolkit
Start or grow a local elder abuse case review multidisciplinary team with this research- and resource-rich toolkit.

Financial Exploitation & Reporting
Learn about financial scams and find the right reporting agency.

Webinars
Webinars targeted to elder abuse professionals and those interested in elder abuse topics.

Elder Abuse Statutes
State statutes relevant to elder abuse cases.
PRESENTERS

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

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

• 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**

- **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

• 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

• **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

• 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.
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

- 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

• 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 III-B 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

Client consent

Professional obligations

Establishing relationships
• 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
Questions & Suggestions

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