



State Society on Aging of New York
POLICY STATEMENT ON ELDER JUSTICE AND ELDER ABUSE

Last updated: April 2018

DEFINITION

Elder abuse includes physical, sexual, financial and psychological harm or threat of harm, abandonment or neglect, of older adults age 60 years and older by family members, significant others, acquaintances, and predatory strangers. In the Toronto Declaration on the Global Prevention of Elder Abuse (2002), elder abuse is defined as **“a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person. It can be of various forms: physical, psychological, emotional, sexual, and financial or simply reflect intentional or unintentional neglect”** (WHO/INPEA, 2002).

BACKGROUND

Elder abuse against older adults that has been identified as a serious social problem, in addition to child and younger spouse/partner abuse. The problem of elder abuse is especially complex because of the diversity of older adults in terms of physical and mental capacity, and the growing diversity and longevity of older adults in New York State.

A recent New York State prevalence study, *Under the Radar*, found that almost 8 percent of older adults living in the community have been victims of elder abuse and neglect. However, it also found that elder abuse in the community is vastly under-reported, with only 1 out of every 23 cases coming to the attention of agencies and law enforcement.

A national prevalence study by Acierno et al. (2010) found a national prevalence rate of 10 percent. A report recently promulgated by the United Nations Department of Social and Economic Affairs (DESA) identified neglect, abuse and violence against older women, in particular, as a significant human rights violation that represents a normative gap in existing human rights protections globally.

The conceptualization of older adult abuse as, variously, a domestic violence issue, an adult protective services issue, and a form of ageism, suggests multiple and often contradictory theoretical explanations and policy and programmatic responses.

Elder abuse takes many forms, ranging from physical and psychological abuse to financial exploitation. The incidence of abuse is higher if the family member suffers from past or current abuse, has some type of mental

illness, is unemployed or has financial problems, and/or feels stress or burdened by the care of their loved ones (Lachs & Pillemer, 2015).

Because family members have a unique relationship with the elder and can often access the elder's financial information, family members commit a substantial portion of financial abuse. In a study of 4,156 older adults, family members were the most common perpetrators of financial exploitation of older adults (FEOA) (57.9%), followed by friends and neighbors (16.9%), followed by home care aides (14.9%) (Peterson, Burnes, Caccamise, Mason, Henderson, Wells, & Lachs, 2014).

RECOMMENDATIONS

To address the problem of elder abuse, the State Society on Aging of New York recommends the following public policies (federal, state, and city) that will guarantee, to the greatest extent possible, a broad range of options that can ensure the empowerment and protection of older adults at risk of victimization, while encouraging self-determination and cost-effectiveness.

Federal

Support the Elder Justice Coordinating Council's Eight Recommendations for Increased Federal Involvement in Elder Abuse

- Support the Investigation and Prosecution of Elder Abuse Cases—Support the investigation and prosecution of elder abuse, neglect, and financial exploitation cases by providing training and resources to federal, state, and local investigators and prosecutors.
- Enhance Services to Elder Abuse Victims—Support and protect elder abuse victims by improving identification of elder abuse and enhancing response and outreach to victims.
- Develop a National Adult Protective Services (APS) System—Develop a national APS system based upon standardized data collection and a core set of service provision standards and best practices.
- Develop a Federal Elder Justice Research Agenda—Establish a coordinated research agenda across federal agencies to identify best practices for prevention of and intervention in elder abuse and elder financial exploitation.
- Expand Public Awareness of Elder Abuse, Neglect, and Exploitation Issues -- This is particularly important in immigrant communities and communities of color where research shows that abuse often goes unreported.
- Cross-disciplinary Training on Elder Abuse—Develop training to educate stakeholders across multiple sectors and disciplines on preventing, detecting, intervening in, and responding to elder abuse, neglect, and exploitation.
- Combat Elder Financial Exploitation, including Abuse by Fiduciaries—Prevent, detect, and respond to elder financial exploitation through federal enforcement activities, policy initiatives, coordination, oversight and education, and by collaborating with industry to enhance fraud detection and provide resources for victims.
- Improve Screening for Dementia and Cognitive Capacity, Financial Capacity, and Financial Exploitation—Improve the ability of APS and first responders to screen for diminished capacity, diminished financial capacity, and vulnerability to or victimization of financial exploitation (Administration for Community Living, 2014).
- Support EJC supported federal legislation related to elder abuse, including:

- The [Elder Abuse Victims Act](#) (S.462) that advances the rights of victims of elder abuse and exploitation, and increase resources aimed at the investigation and prosecution of elder abuse.
- [Elder Protection and Abuse Prevention Act](#) (S.2077) that would amend the *Older Americans Act* to create in statute a National Adult Protective Services Resource Center, would require the aging network to screen and report elder abuse, and would improve coordination of efforts amongst allied agencies.
- [Home Care Consumer Bill of Rights Act](#) (S. 1750) that would extend the rights, protections and advocacy services available to long-term care facility residents to consumers receiving long-term care at home, including creating a Home Care Ombudsman Program and a National Adult Protective Services Resource Center.

State

- Support legislation on banks and other financial institutions mandating reporting suspected financial abuse of older adults to identified authorities.
- Mandate a statewide data system on neglect, abuse and violence against older adults that includes APS, law enforcement, domestic violence, aging and financial service systems
- Mandate hospitals to screen for and consider abusive home situations in discharge planning; sanctions for not responding appropriately and funding available for hospital stays that are not medically necessary if needed to resolve abusive situations
- Mandate training for all licensed professionals including mental health, substance abuse, child welfare, and criminal justice workers on elder abuse that could be perpetrated by clients of these systems on older relatives.
- Mandate training for law enforcement, judges, district attorney and attorneys serving older adults.
- Mandate that discharge planners take the vulnerability of older relatives into account when arranging for placements of clients transitioning out of treatment or incarceration programs.
- Change domestic violence residential and non-residential shelter regulations to ensure that domestic violence shelters and programs licensed by the State also serve older women victims of abuse.
- Require and fund evaluations for all community-based elder abuse programs and APS interventions.
- Strengthen family caregiver support programs statewide as preventive service for elder abuse.
- Mandate that elder abuse is assessed and treated across institutional settings, to include prisons as well as nursing homes and hospitals.

Local

- Provide access to professional education for public sector workers serving older adults in the community commensurate with CPS workers.
- Provide discretionary funding for in-home crisis services to elder abuse victims ineligible for APS and unable or unwilling to spend-down even though at risk of abuse, neglect or self-neglect.

OPPORTUNITIES FOR STATE POLICY ACTION

Support legislation on banks and other financial institutions mandating reporting suspected financial abuse of older adults to identified authorities.

- New York State requires that Adult Protective Service (APS) workers report suspicions of abuse to law enforcement; otherwise New York is either the only or one of the last few states that has not passed legislation that mandates reporting of elder abuse.
- Nonetheless, the New York Social Services Law (473-b) does provide immunity from civil liability to any person who makes a good faith referral to Protective Services for Adults, law enforcement, aging services or another agency concerning a person who may be an endangered adult in need of protective or other services.)
- In 2015, the New York Department of Financial Services issued regulatory guidance to financial institutions doing business in New York, “urging the adoption of best practices that help prevent financial exploitation of our state’s senior citizens.”[1]
- In 2017, Gov. Cuomo unveiled a plan to curtail financial abuse of older adults that includes: launching an elder abuse certification program for banks; improving the ability of banks to prevent fraudulent transactions; and mandating reporting abuse for banks.[2]
- For more info see the following:
 - <https://www.duffyduffy.com/review-new-york-state-laws-elder-abuse-neglect/>
 - <http://www.stetson.edu/law/academics/elder/ecpp/media/Mandatory%20Reporting%20Statutes%20for%20Elder%20Abuse%202016.pdf>
 - <https://nycua.org/docman/more/real-solutions-copy/162-best-practices-guide-on-elder-financial-abuse-0/file>

Mandate a statewide data system on neglect, abuse and violence against older adults that includes APS, law enforcement, domestic violence, aging and financial service systems

- In a now much-cited study, New York State conducted a study on the under-reporting of elder abuse in the state.[3] Otherwise, there is no uniform database on elder abuse in the state.
- The New York State Committee for the Coordination of Police Services to the Elderly publishes annual reports that include statistics on the prevalence of crimes against the elderly.
- APS has its own reporting system in New York.
- A bill passed the NY Senate which would require the Office of Children and Family services to track and report elder abuse.[4] In family offense cases where the victim is sixty-five years or older, police are required to send a copy of the domestic violence incident report form to the New York State Committee for the Coordination of Police Services to Elderly Persons. The committee is required to report annually to the Legislature on the incidence of such reports and to recommend policies and programs to assist law enforcement, the courts and the Crime Victim's Board in helping victims.

Mandate hospitals to screen for and consider abusive home situations in discharge planning; sanctions for not responding appropriately and funding available for hospital stays that are not medically necessary if needed to resolve abusive situations

- New York State requires all hospitals to establish protocols for identifying and treating victims of domestic violence (but not specifically for elder abuse).[5]
- In September 2017, Gov. Cuomo signed into law a bill which requires state agencies to create guidelines that will assist healthcare providers in identifying elder abuse.[6] The law calls for the development of screening tools, questions that healthcare providers can ask, and other resources they can use to report abuse or seek additional assistance.

Mandate training for all licensed professionals including mental health, substance abuse, child welfare, and criminal justice workers on elder abuse that could be perpetrated by clients of these systems on older relatives.

- A bill was introduced in 2013—that did not seem to pass—into the New York State Assembly that would require physicians, chiropractors, dentists, registered nurses, etc. to have completed one hour of coursework or training regarding the identification and reporting of elderly abuse prior to the renewal of a license, registration or limited permit.[7]
- The Elderly Abuse Education and Outreach Program provides outreach to the general public and there is also the [New York State Elder Abuse Training Manual](#) published by Lifespan. The Manual is intended broadly for professionals, but I think it's mostly just a secondary guide.
- In New York, enhanced multi-disciplinary teams (E-MDTs), which include forensic accountants and geriatric psychiatrists, investigate and intervene in complex cases of elder financial exploitation and abuse. I believe there is some training of financial professionals involved as part of the program. See [here](#) for more. (And [here](#) is the training video – intended for APS staff and financial institution employees – on financial exploitation from the NY Office of Children and Family Services).
- As part of the Elderly Abuse Education and Outreach Program, professionals and non-professionals who work with or are in contact with older people are trained at a variety of events to better recognize abuse in domestic settings and facilitate intervention. (see page 24 of the [New York State Plan on Aging](#))

Mandate training for law enforcement, judges, district attorney and attorneys serving older adults.

- Gov. Cuomo signed legislation that expands the scope of the Committee for the Coordination of Police Services to elderly persons.[8]
- According to the 2016 report from the Committee for the Coordination of Police Services to Elderly Persons, as part of the Basic Course for Police Officers is a four-hour block devoted to crimes against the elderly.[9]

Mandate that discharge planners take the vulnerability of older relatives into account when arranging for placements of clients transitioning out of treatment or incarceration programs.

- No evidence of action.

Change domestic violence residential and non-residential shelter regulations to ensure that domestic violence shelters and programs licensed by the State also serve older women victims of abuse.

- No evidence of action.

Require and fund evaluations for all community-based elder abuse programs and APS interventions.

- No evidence of action.

Strengthen family caregiver support programs statewide as preventive service for elder abuse.

- In 1995, New York state established the [Elderly Abuse Education and Outreach Program](#) to provide outreach to the general public, which includes money to expand existing programs in communities, funding to identify and intervene as necessary in abusive caregiver-receiver relationships, and various other funding initiatives.
- Section 206 of the NYS Elder Law, Article II, Title I established the Caregiver Assistance Program, which provides training and assistance programs for caregivers of frail and disabled persons. However there is no mention of elder abuse training in information about the program.

Mandate that elder abuse is assessed and treated across institutional settings, to include prisons as well as nursing homes and hospitals.

- The Elder Abuse Prevention Interventions (EAPI) – funded through the ACA – is a grant that brings together “entities with unique resources and skills, forming coordinated, enhanced multi-disciplinary teams (E-MDTS) to provide improved and effective cross-system collaboration and specialized responses, resulting in restored safety and security to older adults.”
- The Centers for Medicare and Medicaid Services recently issued new regulations for nursing homes, which includes expanded staff training for elder abuse prevention (see [this article](#) for more info. This is not specific to New York, however.

REFERENCES

[1] <https://www.dfs.ny.gov/about/press/pr1502271.htm>

[2]

<https://www.governor.ny.gov/news/governor-cuomo-announces-5th-proposal-2017-state-state-comprehensive-plan-protect-seniors>. See page 286.

[3] <https://ocfs.ny.gov/main/reports/Under%20the%20Radar%2005%2012%2011%20final%20report.pdf>

[4] <https://www.nysenate.gov/legislation/bills/2015/S852>

[5] <http://www.opdv.ny.gov/professionals/health/laws.html>

[6]

http://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A08258&term=2017&Summary=Y&Memo=Y&Text=Y

[7] http://assembly.state.ny.us/leg/?default_fld=&bn=A00723&term=2013&Summary=Y&Actions=Y&Text=Y&Votes=Y

[8] <https://www.nysenate.gov/legislation/bills/2015/S5905>

[9] <http://www.criminaljustice.ny.gov/crimnet/ojsa/2016-TRIAD-Annual-Report-June-2016.pdf>

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SELECT INTERNATIONAL, NATIONAL, AND LOCAL RESOURCES ON ELDER JUSTICE

American Society on Aging: <http://www.asaging.org/elder-abuse-prevention-resources>

Administration on Community Living Elder Care Locator

https://eldercare.acl.gov/Public/Resources/Topic/Elder_Abuse.aspx

Elder Justice Coalition: <http://www.elderjusticecoalition.com/>

Elder Abuse Center: https://www.elderabusecenter.org/default.cfm_p_linksdirectories.html

International Network for the Prevention of Elder Abuse: <http://www.inpea.net/>

Lifespan: <https://www.lifespan-roch.org/>

National Center on Elder Abuse:

http://elderabuse.org/?gclid=EAIaIQobChMI6L6W5aDJ2gIVG4ezCh0bwQmfEAAYASAAEgIQtPD_BwE

New York Adult Protective Services: <https://ocfs.ny.gov/main/psa/Default.asp>