

NATIONAL CENTER ON **LAW & ELDER RIGHTS**

Elder Justice Compendium

The Compendium is a resource hub for civil legal aid attorneys and advocates working with older adults, providing curated guidance on existing resources that are available to attorneys who are assisting victims of elder abuse.

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1. Introduction to the Compendium

The Elder Justice Compendium is a resource hub for civil legal aid attorneys and advocates working with older adults. The Compendium provides curated guidance on existing resources that are available to attorneys who are assisting victims of elder abuse. The Compendium is divided into core subject areas, and each section offers a brief introduction to that topic area, descriptions of available resources, and links to each resource.

The Compendium is part of a series of elder justice resources that will be issued by the [National Center on Law & Elder Rights](#) with support by the Administration for Community Living's Administration on Aging. NCLER is producing a state-specific template guide for financial exploitation that will be available to be customized by states. To see if your state has a guide or to get the template to customize a guide for your state, [contact NCLER at ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov). In 2019, NCLER will distribute an Elder Justice Toolkit, which will contain practice-oriented guidance and sample legal forms for using civil legal remedies to address elder abuse.

The resources in the Elder Justice Compendium are national in scope. Additional resources that are specific to your state or jurisdiction may exist and provide more detailed information about statutes, local practices, and procedure.

If any broken links are discovered, please contact ConsultNCLER@acl.hhs.gov. The Compendium is available for download as a PDF with clickable links.

2. Introduction to Elder Abuse

There are many definitions of elder abuse that can be found in federal, state, and local laws and regulations. In the [Older Americans Act](#), it is defined as “the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.” Generally, elder abuse takes many forms, including physical abuse, sexual abuse, psychological abuse, neglect, and financial exploitation. Elder financial exploitation is the most prevalent form of abuse experienced by older adults, but many victims will experience more than one type of abuse, which is called [polyvictimization](#).

All types of elder abuse cause harm to the physical health, mental well-being, and financial stability of older adults. Rates of hospitalization and mortality are much higher among victimized older adults, and the financial losses attributed to exploitation are in the billions of dollars. Elder abuse affects many people—it is estimated that 1 in 10 older adults experience at least one form of abuse.

Elder abuse may have both criminal and civil remedies. Civil legal aid attorneys are uniquely positioned to deploy civil legal strategies and advocacy to ensure victim safety, mitigate the effects of abuse, and help recover stolen assets. Civil legal aid can add value whether or not a criminal prosecution is involved.

Key Resources

► [National Center on Law & Elder Rights \(NCLER\): Elder Abuse Basics Chapter Summary](#)

This Chapter Summary offers information on defining elder abuse, the current landscape, and how civil legal services can address elder abuse. It has an accompanying [video webinar](#).

► [NCLER: Financial Exploitation Basics Chapter Summary](#)

This Chapter Summary defines and discusses the different types of financial exploitation, victim & perpetrator characteristics & screening, and basic information about action steps that civil legal attorneys can take to address abuse. It has an accompanying [video webinar](#) and [slides](#).

Key Resources (continued)

- ▶ [Office for Victims of Crime, Training & Technical Assistance Center Elder Abuse: Training for Legal Services Providers](#)

This web-based interactive training provides an overview for legal aid and civil attorneys on how to identify and respond to elder abuse, including Domestic Violence and Sexual Assault, Financial Fraud and Exploitation, Practical and Ethical Strategies, and What Lawyers Need to Know.

- ▶ [National Center on Elder Abuse \(NCEA\): Research—Statistics & Data](#)

This page has statistics, data, and references on the prevalence of elder abuse, the demographics of those affected by elder abuse, risk factors, and more. This is a helpful resource for gaining general knowledge about the landscape of elder abuse.

3. Finding Relevant Law & Statutes

There are several federal acts that address elder abuse and authorize many of the federal programs in place to address abuse. These include the [Older Americans Act](#) and the [Elder Justice Act](#). However, state statutes provide much of the law that will be utilized by civil legal aid attorneys in the course of providing protection and redress for their clients. The location and content of elder abuse related statutes vary by state. Some states have criminal or civil statutes that directly address elder abuse.

The statutory areas to review include: adult protective services laws, criminal codes, probate and trusts and estates codes, family law, and civil remedies. NCLER is producing state-specific Elder Financial Exploitation guides for several states. The guides will provide state-based resources, laws, and guidance. To see if your state has a guide or to get the template to customize a guide for your state, [contact NCLER at ConsultNCLER@acl.hhs.gov](mailto:consultncler@acl.hhs.gov).

The resources listed below can also assist with locating statutes by state.

Key Resources

- ▶ [Department of Justice \(DOJ\) Elder Justice Initiative: State Elder Abuse Statutes](#)

This page of the DOJ's website offers a catalog of elder abuse statutes sorted by state, including civil and criminal statutes.

- ▶ [Center for Elders and the Courts: Basics—Elder Abuse Laws](#)

This page of the Center for Elders and the Courts provides a detailed explanation of the various types of state laws and how to locate them.

4. Understanding Perpetrator & Victim Dynamics

In [many cases of elder abuse](#), the perpetrator is a family member or friend. In those cases, attorneys should take a more trauma-informed approach to lawyering, which is discussed in the “[Client-Centered Advocacy](#)” section of this Compendium. Some of the power and control dynamics associated with elder abuse are similar to those involved in domestic violence. However, there are differences, and the below resources provide guidance on those differences.

Key Resources

▶ [National Clearinghouse on Abuse in Later Life \(NCALL\): Abuse in Later Life Power & Control Wheel](#)

Adapted from the traditional power and control wheel typically used in understanding power dynamics in domestic violence, NCALL modified the wheel to reflect the power dynamics in most elder abuse situations. See the video below for a brief explanation on the wheel.

▶ [NCALL Webinar: Power & Control Tactics & the Role of Caregiver Stress](#)

This webinar provides an overview of the dynamics between perpetrators and victims of elder abuse. It also describes the above-referenced Power & Control Wheel in more detail, addressing each component of the wheel. The [slides](#) for the webinar are also available on NCALL’s website.

▶ [NCLER Chapter Summary: The Impact of Undue Influence](#)

This Chapter Summary defines undue influence in the elder abuse context, and includes key concepts and tools to help you identify, prevent and mitigate undue influence. It has an accompanying [video webinar](#).

5. Screening for Abuse

The signs and symptoms of elder abuse can be detected in all practice areas, and civil legal aid attorneys and staff should be familiar with recognizing these signs. If elder abuse is suspected, follow-up questions and review of financial documents can assist with determining if an older adult has or is experiencing maltreatment. The below resources provide guidance for detecting abuse.

Key Resources

▶ [NCLER Skills Practice Guide: Issue Spotting, Intake, & Referrals](#)

This Practice Guide contains information and tips for screening for legal issues, including elder abuse. It provides examples of red flags of abuse. The practice guide has an accompanying [video webinar](#) and [slides](#).

▶ [Elder Investment Fraud and Financial Exploitation: Checklist for Lawyers](#)

This checklist can be helpful to lawyers in determining whether their client may be experiencing financial exploitation. The checklist also contains sample questions for attorneys to ask their clients.

6. Ethical Considerations

When working with older adults, particularly older adults who have experienced maltreatment, there are ethical issues that can arise in the course of representation. This section explores some of the more common ethical issues that civil legal aid attorneys face and resources that offer guidance for these situations.

Mandatory Reporting & Permissive Reporting

Mandatory reporting laws generally require certain individuals to report issues related to abuse or injuries to law enforcement or protective services agencies. Mandatory reporting requirements for elder abuse vary by state. Each state's statutes, rules, and ethics opinions will detail who is covered by the statute, who must report, and the process for reporting. In some states, attorneys are considered mandatory reporters for elder abuse. Attorneys should be familiar with the mandatory reporting requirements in their jurisdiction and explain ethical and professional duties to their clients from the start.

Key Resources

▶ [Stetson Law: Guide on U.S. State and Territory Mandatory Reporting Status & Statutes](#)

This guide created by Stetson Law's Elder & Consumer Protection Program offers information and statute citations for each state and territory in the U.S. Although this guide provides direction, you should verify that the information for your state is correct and that you have the most updated information by locating the statutes and rules directly.

▶ [National Clearinghouse on Abuse in Later Life \(NCALL\): Confidentiality & Mandatory Reporting](#)

This page provides a series of Information Sheets on mandatory reporting. These resources are not specific to attorneys, but provide an overview of the concept of mandatory reporting and flowcharts to help with the decision of reporting.

Third Parties

Third parties, such as friends, family members, or caseworkers may wish to be involved in an older adult's legal matter. Sometimes, the third-party is well-intentioned and feels that their presence is helpful or necessary. But, in some cases, the person may be the perpetrator of abuse or controlling. An attorney's ethical obligations to preserve client confidentiality and autonomy require that they speak with their client directly and alone. This can be a challenging situation to navigate—the resources below provide guidance for navigating this issue.

Key Resources

▶ [American Bar Association \(ABA\) Resource Guide: Why Am I Left in the Waiting Room? Understanding the Four C's of Elder Law Ethics](#)

This resource guide provides information designed for clients and third parties to better understand why it is necessary to meet one-on-one.

Key Resources (continued)

▶ [Model Rules of Professional Conduct: Rule 1.6—Confidentiality of Information](#)

Rule 1.6 addresses client confidentiality and the client-lawyer relationship. Your state may have adopted the Model Rules of Professional Conduct or may have their own version. You should locate and be familiar with this rule or your state's equivalent rule. The [comments](#) and opinions on rules of professional conduct can provide you with more detailed information.

Client Capacity

Some older clients or potential clients may have some level of diminished capacity. The Model Rules of Professional Conduct (MRPC) 1.14 starts with a presumption of capacity, and directs attorneys to maintain a normal attorney-client relationship when reasonably possible. Capacity is not an on/off switch, and the standard of capacity will vary, depending on the nature of the decision that your client is required to make. State statutes provide the standards of capacity for specific legal transactions and guardianship. Capacity level may change during representation and duties to a client may be affected as this occurs.

Key Resources

▶ [NCLER Practice Guide: Understanding Legal Capacity & Ethics](#)

This Practice Guide provides a framework and practice tips for addressing questions of client capacity and addresses ethical considerations. It covers the topics of how to conduct an initial capacity assessment and how to ethically represent an individual with diminished capacity. A worksheet for lawyers is included as a tool for an initial capacity evaluation. The Practice Guide has an accompanying webinar [video](#) and [slides](#).

▶ [American Bar Association \(ABA\) and American Psychological Association: Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers](#)

This handbook includes in-depth information on initial capacity assessments by lawyers and includes a worksheet for screening.

▶ [National Legal Resource Center*: Capacity & Vulnerability to Elder Abuse Webinar](#)

This webinar covers the intersection of capacity, consent, and undue influence. The standards of capacity for various legal transactions are explored, and the speakers cover how diminished capacity can increase the risk of exploitation of older adults.

*The National Legal Resource Center is the predecessor to the [National Center on Law & Elder Rights](#).

7. Guardianship

Guardianship (in some states, “conservatorship”) and elder abuse are frequently tied together. In some cases, guardianship may be a necessary tool when an older adult is being abused and lacks capacity pursuant to state law guidelines. However, in some situations, a person under guardianship is being abused by their guardian. In these

cases, an assessment could be made as to whether guardianship is necessary, or if there may be less restrictive alternatives to guardianship.

Nationally, advocates are seeking reform of guardianship statutes to better protect people who are under guardianship from abuse. The [Working Interdisciplinary Networks of Guardianship Stakeholders \(WINGS\)](#) is a project dedicated to support court-led partnerships in states to drive changes in guardianship policy and practice, and has [project tools](#) available.

Key Resources

▶ [NCLER Chapter Summary: Overview of Guardianship and Alternatives to Guardianship](#)

This Chapter Summary provides basic information about guardianship, including how it is obtained, the limitations and powers of guardianship, and alternatives to guardianship. It has an accompanying [webinar](#) and [slides](#).

▶ [NCLER Issue Brief: Guardianship Termination and Restoration of Rights](#)

This Issue Brief and accompanying [presentation](#) discusses the role of counsel, best practices for terminating guardianship, and case examples.

▶ [American Bar Association \(ABA\) Least Restrictive Alternative References in State Guardianship Statutes](#)

This chart provides information by state on whether least restrictive alternatives are referenced in state statutes, language, and citations.

▶ [ABA PRACTICAL Tool](#)

This guide helps attorneys determine whether a less restrictive alternative should be utilized over guardianship. It contains checklists and steps for use during and after client interviews.

▶ [National Legal Resource Center Presentation: Representing Clients in Guardianship Actions: Winning the Case for Supported Decision Making](#)

This presentation provides information on supported decision-making, an alternative to guardianship where older adults and people with disabilities work with trusted friends, family members, and professionals to help them understand the situations they face and the choices they must make so they can make their own decision, without the ‘need’ for a guardian.

8. Client-Centered Advocacy

A client-centered approach to providing legal services to elder abuse victims includes several practices: trauma-informed lawyering, cultural competency, and goal-setting. Also part of client-centered advocacy is providing holistic services. See the sections on “[Additional Legal Issues](#)” and “[Collaborative Approaches](#)” for resources on connecting older adults to additional legal and non-legal services.

Trauma-Informed Lawyering

Older adults who have experienced maltreatment are at risk of further harm if their legal matter is not handled in a trauma-informed manner by their advocate. Practicing trauma-informed lawyering can aid in victims’ recovery process and also allow you to get more thorough information from your client in order to effectively represent them.

Key Resources

- ▶ [National Center on Domestic Violence, Trauma & Mental Health: Trauma-Informed Legal Advocacy Project \(TILA\)](#)

The TILA page offers webinars, guides, and planning tools to help attorneys provide trauma-informed legal assistance. The tip sheets and worksheets are helpful for planning for court.

- ▶ [NCALL & OVW Abuse in Later Life Webinar: Trauma & Older Survivors](#)

This webinar module provides information on the experience of older adult survivors of abuse and trauma, and provides tips for listening and changing perspective. [Slides](#) for the webinar are also available.

Cultural Competency & Avoiding Ageism

The population of older adults is diverse, representing varied races/ethnicities, income levels, genders, and sexual identities and preferences. Therefore, legal services for elder abuse victims should be provided in an informed, culturally competent manner. Additionally, avoiding [ageism](#) is critically important when planning and goal-setting. The below resources offer guidance.

Key Resources

- ▶ [NCEA Research Brief: Mistreatment of Latino Elders](#)

This brief provides information and research relating to the mistreatment of Latino elders, including general cultural beliefs and norms of Latinos and how they relate to and influence elder mistreatment.

- ▶ [National Asian Pacific Center on Aging & NCEA: Financial Exploitation: Asian American and Pacific Islander \(AAPI\) Older Adults – Guidelines for Professionals](#)

This report contains guidance for professionals on better reaching and serving Asian American and Pacific Islander older adults. [Fact sheets](#) are also available in several languages.

- ▶ [National Resource Center on Native American Aging](#)

This online resource center offers factsheets, reports and more on serving Native American Elders.

- ▶ [Justice in Aging’s Fact Sheet: Ten Things You Should Know About Language Access Advocacy for Older Adults](#)

This fact sheet provides guidance for providing and advocating for language access for your clients who are limited English proficient (LEP).

- ▶ [Justice in Aging’s Special Report: How Can Legal Services Better Meet the Needs of Low-Income LGBT Seniors](#)

The section “Best Practices in Outreach, Intakes, and Environment” (page 7) offers tips for serving LGBT older adults in a legal services setting.

Key Resources (continued)

▶ [National Indigenous Elder Justice Initiative: Tribal Elder Protection Team Toolkit](#)

This toolkit contains guidance for setting up a tribal elder protection team, and also has information on team members and cultural sensitivity resources.

Goal-Setting & Planning

Goal-setting and planning can help determine the priorities of a case, desired outcomes, and set expectations. In some cases, pursuing legal remedies is not the best course of action, sometimes due to a client's preference or to avoid further harm. Having this information early in the course of representation is important.

Key Resources

▶ [National Clearinghouse on Abuse in Later Life \(NCALL\) Webinar: Client Goal-Setting & Non-Litigation Responses](#)

This webinar outlines steps for working with your clients to set goals and plans, as well as utilizing referrals as a non-litigation response.

▶ [NCALL Guide: Safety Planning Tips](#)

This guide contains safety planning tips for older adults who have experienced abuse. Not all of these tips will be relevant to your client, so it may be beneficial to draw from these tips in a case-by-case basis. A sample [personalized safety plan](#) is also available from NCALL.

9. Non-Litigation Remedies

When the perpetrator is a family member or friend, older adults may be reluctant to seek criminal penalties or even utilize civil litigation remedies. Non-litigation strategies may need to be explored. Even if litigation remedies are not a desired or viable option for a client, there may be opportunities for ensuring safety and access to programs and supports to assist in the recovery process and protection of remaining assets. The below options and resources can be used in conjunction with litigation remedies as well.

Shelter & Housing Options

If a client is in need of shelter to remain safe from the perpetrator of abuse, an attorney can consider their client's [shelter options](#). In some states, there are specific [elder shelter networks](#), many of which are partnerships with assisted living or nursing homes, and may be able to provide an older adult with a safe place.

Revocation of Existing Planning Documents

In cases where the perpetrator is the named agent in a Power of Attorney (POA) document, it may be necessary to revoke the POA to prevent further abuse. Sample revocation forms or language by state may be available on [Law Help Interactive](#) or on local courts' websites. The revocation and any new POA documents will need to be sent to

the banks and other institutions that may have a copy of the previous POA document. A new POA with a suitable potential agent can be considered if the older adult still needs assistance with managing their finances.

Key Resources

- ▶ [NCLER Issue Brief: Drafting Advance Planning Documents to Reduce the Risk of Abuse or Exploitation](#)

This Issue Brief contains guidance for drafting power of attorney and other advance planning documents, and offers tips and sample language to help prevent future abuse. It has an accompanying video [webinar](#) and [slides](#).

Securing Funds

If the perpetrator has access to the victim's bank account, checks, or debit card, steps can be taken to close or freeze the account to prevent any further withdrawals. If a new account is opened, arrangements should be made to [change the account information](#) on direct deposits for Social Security, pensions, and other items.

If the perpetrator is the representative payee for the victim's Social Security funds, steps can be taken to notify the Social Security Administration (SSA) and set up a new representative payee (usually at the local field office). In [some circumstances](#), restitution or repayment from SSA may be available. Similarly, if the victim receives Veteran's Benefits and the perpetrator is the [fiduciary](#), the Veteran's Administration can be notified.

Key Resources

- ▶ [Justice in Aging: Representative Payee Toolkit](#)

The toolkit contains fact sheets and issue briefs on the representative payee program and information on protections for victims of abuse.

- ▶ [DOJ Elder Justice Initiative Webinar: VA Fiduciary Service](#)

This webinar provides an overview of the fiduciary program and what is being done to address exploitation.

Referrals to Supportive Services

Referrals to various supportive services programs and benefits programs can help older adults who have experienced abuse to obtain myriad services to ensure that they are able to move forward after experiencing abuse. Particularly where the perpetrator of abuse was also serving as a caretaker, it can be important to have supports in place to take on that caregiver role. Additionally, victims of financial exploitation may need help covering the cost of essentials if their income or assets have been reduced. Some available resources include counseling, meal and nutrition services, utility assistance, home and community-based services, and more.

Key Resources

▶ [Elder Care Locator](#)

The Administration for Community Living's ElderCare Locator can assist with locating local services, including Area Agencies on Aging and Aging & Disability Resource Centers.

▶ [Benefits Check-Up](#)

Benefits Check-Up is a free online service from the National Council on Aging that can help in the screening process for federal, state and private benefit programs. Using the tool, clients or their advocates can answer basic questions to get a report detailing some of the benefits that the client may be eligible for. It may be necessary to do more follow-up research to fully determine eligibility.

▶ [NCLER Skills Practice Guide: Issue Spotting, Intake, & Referrals](#)

This practice guide has information on developing a referral network, and has a sample guide designed to be a visual aid for referral decisions. The practice guide has an accompanying [video webinar](#) and [slides](#).

▶ [National Clearinghouse on Abuse in Later Life \(NCALL\) Webinar: Client Goal-Setting & Non-Litigation Responses](#)

This webinar outlines steps for working with your clients to set goals and plans, as well as utilizing referrals as a non-litigation response to elder abuse.

Crime Victim Compensation

Crime victim compensation is available to victims of crime to receive reimbursement for expenses incurred as a result of a crime. Items that could be covered include medical expenses, lost wages or support, and mental health counseling. Each state's process varies and the [National Center for Victims of Crime](#) offers general information about the program and links to locate state programs.

Key Resources

▶ [National Crime Victim Law Institute: Victim Resource Map](#)

This resource map is searchable by location, population, and by crime. It contains information on a variety of resources available to services for victims of crime, including housing, compensation, and more.

Restorative Justice

The concept of restorative justice focuses on repairing the harm done to the victim through processes that facilitate reconciliation and/or rehabilitation of the offender. In cases of elder abuse where the perpetrator is a family member or person of trust, a restorative justice method may be of interest. The goal is to identify the harm done to the victim and have the offender take responsibility for repairing the harm. Methods such as facilitated dialogue, community

panels, or traditional family mediation are examples of types of restorative justice. Vera House's presentation on [Restorative Justice in Elder Abuse Cases](#) presents opportunities and information for these methods.

10. Legal & Litigation Remedies

Civil legal remedies for protection and redress vary by state law. Remedies can be based in adult protective services, tort, property, probate, or guardianship law. Such remedies include protective orders, evictions, actions for an accounting or to freeze assets, and complaints based on breach of fiduciary duty, conversion, or fraud. The section of this Compendium on "[Finding Relevant Law & Statutes](#)" provides guidance for locating relevant laws by state. Sample or example forms or procedure packets by state may be available on [Law Help Interactive](#) or on local courts' websites.

Key Resources

▶ [NCLER Issue Brief: Litigating Financial Exploitation Cases in State Courts](#)

This Issue Brief provides a look at common causes of action, as well as evaluating the merits of a case. It also highlights procedural issues that may arise, including identifying the court, identifying the client, and evidentiary issues. The Issue Brief has accompanying [slides](#) and a [webinar video](#).

▶ [National Clearinghouse on Abuse in Later Life \(NCALL\) & American Bar Association \(ABA\): Abuse in Later Life Webinar—Legal Resolutions & Remedies](#)

This webinar provides guidance on civil legal remedies that can be utilized in elder abuse cases.

▶ [NCALL & ABA Abuse in Later Life Webinar: Bringing the Case—Trial Skills](#)

This webinar from the Abuse in Later Life series provides skill-based information on interviewing, testimony, presenting evidence, and defenses to expect.

▶ [Center for Elders and the Courts: The Role of the Courts](#)

This website provides information on court accessibility accommodations, case handling, and calendaring that may be helpful to your clients.

▶ [NCALL & National Center on Protection Orders and Full Faith & Credit Webinar: Protection Orders and Older Victims—A Survivor-Centered Approach](#)

This webinar provides best practices for seeking protective orders and ensuring that the orders are recognized in other states & territories. The [slides](#) for this webinar are also available.

▶ [National Legal Resource Center: Legal Remedies to Financial Exploitation of Property—Let's Get Grandpa's House Back](#)

This presentation covers financial exploitation related to property and real estate, and provides information on legal tactics to handle these cases and recover assets. Options for your client, including unjust enrichment, undue influence, and fraud, are discussed and practice tips are offered.

▶ [NCLER Chapter Summary: The Impact of Undue Influence](#)

This Chapter Summary defines undue influence in the elder abuse context, and includes key concepts and tools to help you identify, prevent and mitigate undue influence. It has an accompanying [video webinar](#).

11. Fraud & Scams

Older adults who have been financially exploited by a stranger, such as being exposed to a scam or other unknown person fraud, will need assistance and connections to services. Although not all of the legal remedies mentioned above will be applicable, freezing a bank account and/or pursuing action based on fraud could be options.

Scams

Scams and fraudulent practices aimed at older adults include a wide range of illegal behavior from imposter scams to mortgage fraud. Scammers use deceptions, misrepresentation, and threats to convince older adults to send money or provide personal or financial information. Common frauds and scams aimed at older adults include: imposter scams, identity theft, home improvement and mortgage-related scams, and fraudulent marketing practices.

Key Resources

▶ [NCLER Chapter Summary: Protecting Older Adults against Scams](#)

This Chapter Summary details the actions an advocate can take when responding to identity theft, along with unauthorized credit and debit card use. It has an accompanying [video webinar](#) and [slides](#).

▶ [California Elder Justice Coalition Webinar: International Financial Crime—How Do We Turn the Tide and Help Older Victims?](#)

This webinar discusses common scams and financial crimes, and what kind of assistance can be provided to victims.

▶ [U.S. Senate Special Committee on Aging: 2018 Fraud Book](#)

This resource contains information about the most common scams affecting seniors.

Identity Theft

Any bank accounts, credit cards, or other accounts that have been shared with a scammer (or with a family member or friend perpetrator of abuse) should be frozen or changed. If any personal information has been shared, such as social security number, date of birth, insurance information or other sensitive information, action can be taken to limit any further use of that information by implementing credit freezes, notifying financial institutions of fraud, and notifying the IRS and Social Security of the breach.

Key Resources

▶ [Federal Trade Commission \(FTC\): IdentityTheft.Gov](#)

This website provides step by step instructions to help victims recover from identity theft and has sample forms and letters.

12. Coordinating with Prosecutors

Elder abuse may have both civil and criminal remedies. Not every case will be prosecuted, particularly if your client does not want to report the abuse or press charges. However, there may be cases where the prosecutor/district attorney is already involved, or where a victim does wish to try to press charges. Civil legal aid attorneys can take steps to establish a relationship with the prosecutor in their jurisdiction and become familiar with the criminal statutes that will be helpful in predicting whether the prosecutor will take on the case.

Multidisciplinary teams are a growing form of collaboration to address elder abuse. They promote a coordinated approach to elder abuse cases, and the teams generally include prosecutors/district attorneys (discussed further in the “[Collaborative Approaches](#)” section below).

If the prosecutor’s office is pursuing criminal charges against a perpetrator, coordination of the civil case strategy can ensure that the civil case is being pursued at the appropriate time and not working at cross purposes with the prosecution. If there is a criminal conviction, the court may be able to enter an order for restitution.

The Department of Justice has Elder Justice Task Forces and Assistant US Attorney Elder Justice Coordinators in each federal district in the country. The Task Forces provide coordination among state and local agencies, organizations, and law enforcement who are combating elder abuse. Additionally, the Task Forces can evaluate complaints, investigate scams, and provide training centered on federal criminal actions.

Key Resources

▶ [Department of Justice \(DOJ\) Elder Justice Initiative Video: Collaboration is Crucial](#)

This brief video features prosecutors and civil legal providers discussing the need for collaboration in handling elder abuse cases.

▶ [National Center for State Courts: Prosecuting Elder Abuse Cases—Basic Tools & Strategies](#)

This guide is designed for prosecutors, but provides a glimpse of the process and evidence-based needs that your local district attorney will have when considering taking on an elder abuse case.

▶ [DOJ Elder Justice Initiative: Elder Justice Task Forces](#)

This website page provides more information about the Elder Justice Task Forces and how to find out who is in your federal district.

▶ [DOJ Elder Abuse Case Review MDT Toolkit: Member Roles & Contributions](#)

This section of the MDT toolkit explains the role of prosecutors/district attorneys in the MDT.

13. Collaborative Approaches & Partners

Collaboration with aging services providers, community partners, and the justice system is an important component of effective representation. Supportive services can be a lifeline to older victims of abuse, and include nutrition services, counseling, safety planning, and shelter options. This is discussed in more detail in the “[Non-Litigation Remedies](#)” section of the Compendium.

Attorneys should remain aware of their ethical responsibilities and ensure that there are procedures in place to protect attorney-client confidentiality when working with partners.

Adult Protective Services

Adult Protective Services (APS) is an emergency social services program provided by state and local governments serving older adults and adults with disabilities who want assistance because of abuse, neglect, self-neglect, or financial exploitation (adult maltreatment). APS receives and responds to reports of adult maltreatment and works closely with clients and allied professionals to maximize client safety and independence. Once a report is substantiated, APS and other senior services providers can arrange for myriad supportive services for clients, which can be key to ongoing safety and recovery. These services can include housing, health care services, food, medical supplies, transportation, and mental health services. Depending on a client's goals, reporting to APS can result in actions that they might be uncomfortable with, including an investigation and home visit, possible criminal charges against the abuser, and the potential for a guardianship investigation and capacity assessment. When legal aid and APS have an established relationship, they can better understand each other's scope of services, constraints, and ability to refer.

Key Resources

- ▶ [Department of Justice \(DOJ\) Elder Justice Initiative Webinar: Successful Collaboration Between Adult Protective Services and Victim Services](#)

This webinar discusses the benefits and impact of APS and victim services working together to address elder abuse.

- ▶ [NCLC Webinar: Legal Responses to Elder Abuse- The Role of APS, Legal Aid, and Protection and Advocacy](#)

This webinar discusses the logistics of partners working together to address elder abuse, and shares successful collaboration examples and case examples.

Long-Term Care Ombudsman

The Older Americans Act requires every state to have a Long-Term Care Ombudsman (LTCO) program that addresses complaints and advocates for improvements in the long-term care system. Ombudsmen advocate for residents of nursing homes, board and care homes, assisted living facilities, and other adult care facilities. Because LTCO are often a first point of contact for long-term care residents, they may be the first to notice the warning signs of elder abuse or be the first person a resident confides in regarding elder abuse. LTCO are a key community partner in preventing and identifying elder abuse.

Key Resources

- ▶ [National Long Term Care Ombudsman Resource Center](#)

This website contains information about the Ombudsman program and relevant training. Specific information on [abuse and exploitation](#) is also available on the site. The [Long-Term Care Ombudsman Programs and Legal Assistance Developers Collaboration Toolkit](#) provides information and forms to help with successful collaboration.

Multi-Disciplinary Teams

One of the most notable forms of collaboration on elder exploitation cases is through multi-disciplinary teams and enhanced multi-disciplinary teams (MDTs and E-MDTs). MDTs are partnerships among public, private, and non-profit organizations with the goal of improving outcomes for victims of elder financial exploitation. Most teams include a prosecutor, adult protective services, civil legal services, financial institutions, forensic accountant, and other members. The collaboration on these teams fosters accountability and improved cooperation among agencies.

Key Resources

- ▶ [Department of Justice \(DOJ\) Elder Justice Initiative: Multidisciplinary Team Technical Assistance Center](#)

This website has resources and forms on starting and participating in multidisciplinary teams.

- ▶ [DOJ: Elder Abuse Case Review MDT Toolkit—Ethical & Legal Considerations](#)

This section of the DOJ's MDT toolkit provides information on ethical considerations when working within an MDT that has a client case review structure.

- ▶ [Consumer Financial Protection Bureau's Report and Recommendations: Fighting Elder Financial Exploitation through Community Networks](#)

This report contains information on collaborative approaches to elder abuse and offers recommendations.

14. Reaching Older Adult Victims of Abuse in Rural Areas

Older adults who are isolated, either situationally or geographically, often have challenges to accessing legal services. They may not be as familiar with available services due to lack of exposure to traditional outreach efforts, and transportation remains a challenge for many older adults, particularly those who live in rural areas. According to the [Housing Assistance Council](#), approximately one-quarter of seniors live in rural communities. Rural older adults are more likely to have a lower median income, less access to services, and fewer long-term care options.

The Older Americans Act requires that the provision of legal services be prioritized to older adults with the [greatest social and economic need](#), which includes those who experience geographic isolation. But in practice, limited resources and staff can make it a challenge to effectively reach rural seniors. The resources below provide examples of methods of outreach and tools to reach older adults who are more isolated.

Key Resources

- ▶ [Legal Services Corporation \(LSC\): Access to Justice in Rural Areas](#)

This website resource shares best practices and examples of legal services delivery in rural areas.

Key Resources (continued)

- ▶ [National Clearinghouse on Abuse in Later Life \(NCALL\): Rural Domestic and Sexual Abuse Program Advocates—Making a Difference in the Lives of Older Survivors of Abuse](#)

This guide offers general service guidance, with special sections dedicated to challenges of serving older adults in rural areas.

- ▶ [NCLER Issue Brief: Medicaid and Transportation for Older Adults](#)

This Issue Brief provides an overview of Medicaid transportation options, and includes recommendations and troubleshooting tips for advocates. It has an accompanying [video webinar](#) and [slides](#).

- ▶ [One Justice: Rural Justice Initiative](#)

This program is limited to California, but serves as an example of a program bringing legal services and pro bono attorneys to rural locations.

15. Additional Legal Issues

Older adults who have experienced abuse may have additional legal issues that can benefit from the involvement of an attorney. These issues can arise as a result of many abuse factors, especially where financial exploitation has occurred and assets have been considerably reduced. For assistance understanding the dynamics of the types of basic supports that older adults may need, Justice in Aging's [Issue Brief](#) and [Fact Sheet](#) *Supporting Older Americans' Basic Needs: Health Care, Income, Housing and Food*, provides a framework and overview of the key supports relied on by older adults. Below are additional resources on specific legal topics, and more resources on substantive elder law topics can be found at the [National Center on Law & Elder Rights](#).

Health Care

When someone applies for Medicaid to pay for long-term care, they need to provide financial records to prove their income and assets, and to show that they haven't transferred funds or property without getting fair market value for them. When someone has been financially exploited, they may have problems qualifying for Medicaid or maintaining their Medicaid eligibility.

Key Resources

- ▶ [NCLER Issue Brief: Elder Financial Abuse & Medicaid Denials](#)

This Issue Brief provides information on common Medicaid denials related to financial abuse, as well as tips to proactively help your client avoid future Medicaid problems. The Issue Brief has an accompanying [webinar video](#).

Housing: Foreclosure

In some cases of financial exploitation, mortgage or tax payments may not have been made, and the victim is left facing foreclosure, for a traditional mortgage, reverse mortgage, or property taxes.

Key Resources

▶ [NCLER Chapter Summary: Foreclosure Prevention](#)

This guide provides an overview of the unique challenges faced by older homeowners in default and facing foreclosure and provides options and tips to avoid mortgage foreclosure. It has an accompanying [video webinar](#).

▶ [U.S. Department of Housing & Urban Renewal \(HUD\): Avoiding Foreclosure](#)

This HUD webpage provides an overview of options available to help homeowners in foreclosure, including links to options for people with FHA loans. You can also locate a HUD-approved housing counseling agency for your client on the [HUD website](#).

▶ [NCLER Issue Brief: Reverse Mortgage Servicing & Foreclosure](#)

This Issue Brief provides an overview of reverse mortgages, how they work, and what advocates should look for when assisting an older homeowner facing foreclosure of a reverse mortgage. It has an accompanying [video webinar](#).

Housing: Eviction

An older victim of abuse may face eviction if rent payments have not been made due to financial exploitation. Subsidized housing evictions can be an issue as well if the perpetrator has been staying in the home in violation of the housing guidelines. The [LawHelp](#) website may have state-based information for individuals and professionals on eviction defense.

In some cases, the perpetrator of financial abuse may have stolen funds from an older adult that should have been paid to a skilled nursing facility, which could result in threat of eviction from a nursing home or assisted living facility for failure to pay.

Key Resources

▶ [NCLER Chapter Summary: Helping Older Tenants Remain at Home](#)

This Chapter Summary addresses unique issues faced by older tenants and offers guidance on remedies and options for keeping older adults in their homes. The Chapter Summary is accompanied by a [video webinar](#) and [slides](#).

▶ [NCLER Issue Brief: Defending Evictions from Nursing Homes and Assisted Living Facilities](#)

This Issue Brief provides information on the notices, documentation, and situations that are required by law for a nursing home to evict a resident, and offers strategies for defending an eviction or appealing a decision. This Issue Brief is accompanied by a [video webinar](#) and [slides](#).

Consumer

Unpaid bills or the unauthorized use of credit cards or accounts may leave victims with credit card bills that they cannot pay. Working with the fraud department of the credit or banking institution may yield results and the financial institutions should be contacted as soon as possible. Many will have defined windows of time in which the fraud must be reported.

There may be defenses that can be raised in any consumer debt lawsuits, and it can be helpful to evaluate whether the client is “collection-proof,” meaning their income and/or homestead, for example, is beyond the reach of creditors. If judgments have already been entered, attorneys can determine whether the judgement can be vacated or if the case can be re-opened.

Key Resources

▶ [NCLER Chapter Summary: Debt Collection Protections for Older Consumers](#)

This resource contains strategies for helping older adults deal with debt issues, and provides an overview of applicable law. It has an accompanying [video webinar](#) and [slides](#).

▶ [NCLER Issue Brief: Medical Debt Strategies for Older Consumers](#)

This Issue Brief provides guidance on helping older adults with medical debt, including seeking insurance provider coverage of debt and general debt collection strategy. It has an accompanying [video webinar](#).

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