

# CIVIL LEGAL AID SUPPORTS FEDERAL EFFORTS TO HELP PREVENT ELDER ABUSE

## THE NEED

A hidden epidemic in America threatens far too many of the nation's seniors: elder abuse affects approximately 10% of people age 60 and older, and close to 50% of people with dementia. Victimized by strangers and those on whom they depend, elder abuse leads to premature deaths, and increased hospitalizations; depletes the resources of individuals, families, businesses, and public programs such as Medicare and Medicaid; and places burdens on our health care, financial, and judicial systems. Without proper training, professionals working with older Americans too often miss signs of elder abuse. Despite the dire consequences, some studies suggest that as few as 1 in 23 cases is reported to authorities, and even fewer are ever prosecuted. Estimates of the direct medical costs associated with violent injuries to older adults add over \$5.3 billion to the nation's annual health expenditures.

## EXAMPLES OF THE FEDERAL RESPONSE

Convened in 2012 by the Secretary of Health and Human Services (HHS), the [Elder Justice Coordinating Council](#) (EJCC) and its Federal member agencies heard from experts and advocates about a range of issues, including the need for improved legal resources to address elder abuse in all its forms. In 2014, the Secretary adopted the EJCC's Eight Recommendations that Federal agencies are using to provide a coordinated, multidisciplinary response to elder abuse, neglect and exploitation.

In addition to its central role with the EJCC, the HHS Administration for Community Living/Administration on Aging (ACL/AoA), manages a portfolio of programs to protect vulnerable adults. Their [National Center for Elder Abuse](#) provides research, training, best practices, news and other resources for policymakers and professionals in the elder justice field. Their [National Legal Resource Center](#) provides elder abuse information tailored for a legal audience, while the "Title III-B" funding for legal assistance and elder rights programs provides funds to over 1,000 legal aid providers nationwide. ACL/AoA's National Adult Protective Services Resource Center works to improve investigation and response, train Adult Protective Services staff, and develop and disseminate best practices for interventions into reported incidents of elder abuse. Their states' [Long-Term Care Ombudsman Programs](#) serve people in long-term care facilities and work to resolve problems related to poor care, violations of rights and quality of life.

HHS works closely with other agencies to combat elder abuse, including the Department of Justice (DOJ). The DOJ's Elder Justice Initiative (EJI) supports the Department's law enforcement efforts against nursing homes and other long-term care providers that provide grossly substandard care to Medicare and Medicaid beneficiaries and also coordinates the Department's policy and programmatic efforts. For example, in September 2014, EJI launched the [Elder Justice](#) website to help elder abuse victims and their families, prosecutors, researchers and practitioners, including civil legal aid attorneys, to address this silent epidemic plaguing our nation's elders. EJI, along with DOJ's Office for Victims of Crimes (OVC) and Office for Access to Justice collaborated on developing an [online training](#) to help legal aid lawyers address elder abuse. OVC awards Victims of Crime Act assistance formula grants to all states/territories, which then award subgrants to local service providers assisting crime victims, including elder abuse victims. DOJ's Office on Violence Against Women (OVW) provides funding for victims assistance programs that also include help for elder abuse victims. DOJ's Financial Fraud Enforcement Task Force continues to obtain convictions involving financial fraud perpetrated against older Americans, and the Civil Division has successfully pursued nursing homes that have defrauded the government by providing grossly substandard care to Medicare and Medicaid beneficiaries. The Consumer Financial Protection Bureau's [Office for Older Americans](#) is the only Federal office dedicated to the financial well-being of older Americans. The Office works to help seniors, their family members, caregivers, and the professionals who assist them to identify and avoid unfair, deceptive, abusive, and discriminatory practices that target the elderly.



Calls for help to Legal Services for the Elderly's Helpline (LSE) from victims increased 42% following a 2014 elder abuse public awareness campaign:

- where personal safety was at risk, LSE helped improve or restore safety in 86% of the cases;
- where the senior's home was fraudulently taken and LSE pursued litigation, LSE recovered the home over 90% of the time.

*~Maine Legal Services for the Elderly, funded in part by HHS ACL Title III-B*





Survivors of elder abuse, neglect and exploitation *need access to civil legal services* to secure safe housing, health and medical resources and other basic needs to help them regain a life of dignity in older age.

~ Kathy Greenlee, Assistant Secretary for Aging Administrator of the Administration for Community Living U.S. Department of Health & Human Services

## Legal Aid Helps

- **Prevent mortgage foreclosures due to elder abuse**, stabilizing lives and preventing seniors from losing their homes.
- **Protect physical safety by doing a holistic intake of elders and providing legal help** to break an abuser’s control over the victim with protective orders and guardianship proceedings.
- **Advise and coordinate with other agencies and service providers that respond to elder abuse**, including law enforcement agencies, adult protective services, long-term care ombudsmen, financial service providers, and victim service providers.
- **Counsel older adults** about avoiding financial scams and exploitation.
- **Recover assets or property**, and assist with obtaining restitution.
- **Advise the private sector about how to interpret laws and regulations** and develop policies and protocols to facilitate prevention, detection, and reporting of abuse.
- **Provide legal advice for collateral problems flowing from elder abuse**, including income security, health care, mental health, safety, long-term care, nutrition, housing, and utilities.
- **Advise older Americans about legal documents that support self-sufficiency** such as power of attorney documents, wills, and advance directives, and include provisions that limit the chance for misuse by designated representatives.
- **Secure government benefits such as Medicaid and veterans’ benefits**, by explaining eligibility requirements, properly documenting applications, and appealing erroneous denials.

### Lawyer Preserves Essential Healthcare and Housing

When 92-year old “Sara’s” health declined, she moved from assisted living to a 24-hour care nursing home. During the move it was discovered that Sara’s grandson financially exploited her and that he had taken about \$96,000. Because of that transfer of assets, Sara’s application for Medicaid was denied, and the nursing home issued her an involuntary discharge notice. Illinois’ Long Term Care Ombudsman referred Sara to Prairie State Legal Services. Funded in part by a HHS Title III-B grant, her legal aid attorney successfully appealed and obtained a Hardship Waiver from the state’s Medicaid administrator, so Sara could stay housed with the care she needed. Later when Sara became incapacitated, her legal aid attorney secured a state guardian to prevent further abuse by the grandson, and cooperated with the criminal investigation.

### Legal Aid Delivers Justice for Elderly Domestic Violence Victim

“Cynthia” was 83-years old when her controlling husband threw her out of their home and cut her off from all assets after she became too ill to care for him and their home. Cynthia’s husband was wealthy, and theirs was a second marriage that occurred late in life. During their marriage, Cynthia became isolated and was subjected to controlling and threatening behavior. After her husband Kicked her out of their home, she had no means of support other than a small Social Security benefit. Funded in part by DOJ OVW’s Legal Assistance for Victims grant, a Montana Legal Services Association attorney represented Cynthia in court. The attorney successfully obtained a property settlement that allowed Cynthia to live out her remaining years in safety and in a home close to her adult children.

