



## **Federal Responses Needed to Meet the Significant Challenges Facing State and Local Adult Protective Services**

White Paper Prepared for the Elder Justice Coordinating Council

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Adult Protective Services (APS) are the only national state-based statutorily-authorized system in place to investigate elder abuse, neglect and exploitation, and to respond to and protect its victims. APS (which, in most states, also responds to abused younger adults with significant disabilities) operates under state laws in every community. APS exists to protect vulnerable adults who cannot protect themselves because of cognitive or other serious impairments.

While research is desperately needed, and other systems must also be called upon to respond to what is truly an epidemic of elder abuse, APS is the keystone to any discussion about an adequate response system, especially for victims who live in their own homes and communities (where almost all older persons reside). We must adequately and compassionately respond to those who are being victimized and suffering right now, while simultaneously working toward creating a more comprehensive and evidence-based response system for the future. APS is the primary system we have for achieving these goals.

Research shows us there are more elder abuse victims than other types of abuse victims, including victims of child abuse and domestic violence.<sup>1</sup> Yet, older victims are the only abuse victims who receive no designated federal support for services, although federal investment clearly makes a significant difference: federal support and attention have resulted in reduced incidences of both child abuse and domestic violence homicides.<sup>2</sup>

APS relies heavily on state and local funds, which have been under intense pressure over the last few years. APS receives no designated federal funding (although more than half (60%) of states opt to use some Social Services Block Grant funds to support APS). The Elder Justice Act (EJA), enacted in 2010 as part of the Affordable Care Act, authorizes the first-ever dedicated funding for states for APS. While the

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<sup>1</sup>Acierno, R., Hernandez, M. A., Amstadter, A. B., Resnick, H. S., Steve, K., Muzzy, W., & Kilpatrick, D. G. (2010). Prevalence and correlates of emotional, physical, sexual, neglectful, and financial abuse in the Congressional Record Feb. 10, 2003. <http://thomas.loc.gov/cgi-bin/query/R?r108:FLD001:S02121> United States: The National Elder Mistreatment Study. *American Journal of Public Health*, 100, 292-297. Sedlak, A.J., Mettenburg, J., Basena, M., Petta, I., McPherson, K., Greene, A., and Li, S. (2010). Fourth National Incidence Study of Child Abuse and Neglect (NIS-4): Report to Congress. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families. [http://www.acf.hhs.gov/programs/opre/abuse\\_neglect/natl\\_incid/index.html](http://www.acf.hhs.gov/programs/opre/abuse_neglect/natl_incid/index.html).

ONE DEPARTMENT: OVERVIEW OF ACTIVITIES ON VIOLENCE AGAINST WOMEN 2008-2009. DHHS Office of Women's Health <http://www.womenshealth.gov/owh/pub/violence-against-women.cfm>.

<sup>2</sup>Dugan, L, Nagin, D & Rosenfeld, R. Do Domestic Violence Services Save Lives? *NIJ Journal*. ISSUE NO. 250 / NOVEMBER 2003

EJA holds out considerable promise for states and their APS systems, not one dollar has yet been appropriated.

While state and local APS investigators, case workers and others do the best they can to deal with an onslaught of difficult, complex and growing caseloads, they do so with virtually no national infrastructure behind them. There is no federal agency with responsibility for APS; no national data system, practice standards, or minimal training standards, among many other infrastructure and support needs. As we know, older persons, especially the very old, are the fastest growing population group. On the basis of that fact alone, more elder abuse can be expected. That makes it especially troubling to note that despite these demographics, over the past five years 87% of state APS programs report that the number of their reports and caseloads have gone up, while at the same time 48% have had their staff levels reduced.

This information and much additional data on APS were gathered through a comprehensive survey of state APS Programs by the National APS Resource Center (NAPSRC), and its partner the National Association of States United for Aging and Disabilities (NASUAD), the results of which are summarized in a just-released Resource Center report: *Adult Protective Services in 2012: Increasingly Vulnerable*.<sup>3</sup>

While vulnerable and older adults are often invisible, to a large extent so is the primary system charged with protecting them. APS is difficult even to describe, as it differs from state to state and sometimes even from county to county. With no federal leadership or resources, states have evolved their own systems, with their own definitions and standards. Some examples:

- APS programs are administratively fragmented: about a third reside in state units on aging; about half in state departments of social services or similar agencies, and the rest in various other arrangements.
- Over 80% of state APS programs serve all persons with significant disabilities aged 18 and older; while several serve only persons 60 or 65 and older, and some states serve older persons with or without disabilities.
- All APS programs investigate abuse in home settings, where over nine out of ten older persons live, but almost half also conduct abuse investigations in facilities.
- In about one-third of states, APS professionals work in other programs in addition to APS (e.g., aging services).<sup>4</sup> All these variations make it difficult to gather data, to describe APS in a succinct way, to explain to victims, the general public, and allied professionals how and where to report suspected abuse, and to develop standards of practice and training.

For the purposes of this paper and brevity we are making ten key recommendations as to what the federal response could be to strengthen and support APS to better address the needs of elder abuse victims (as well as younger adult victims with disabilities). The recommendations are not made in order or priority; rather, they are all of great importance to APS and more importantly, to the victims of abuse, neglect and exploitation served by APS professionals across the United States.

1. There is a great need for support for research about the effectiveness of APS interventions, promising practices and optimal outcomes for victims. A not-yet-published paper from the joint research committee of NAPSA and the National Committee to Prevent Elder Abuse (NCPEA) found only 44 “hypothesis-driven” studies involving APS over a 15-year period, and “very few” of those looked at

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<sup>3</sup> National Adult Protective Services Resource Center and National Association of States United for Aging and Disabilities. *Adult Protective Services in 2012: Increasingly Vulnerable*. 2012.

<sup>4</sup> Ibid.

the risks and benefits of APS interventions.<sup>5</sup> A recent and thorough survey, literature review and paper on evidence-based practices from NAPSRC's partner, the National Council on Crime and Delinquency (NCCD), "identified a handful of evidence-based practices" being utilized by APS across the country.<sup>6</sup>

2. There is a great need for the development and testing of field-friendly assessment and screening tools that can be used by APS. We know, for example, that common tools such as the Mini Mental Status Exam (MMSE), still in use by APS in 22 states, are not adequate to screen for financial and other types of capacity, especially given the recent research on mild cognitive impairment and aging brains.<sup>7</sup> The field needs new and easy-to-use tools that are not costly to states' or local APS programs in terms of either time or money.
3. It is imperative that a national data system be developed, tested and implemented that will be capable of annually telling us how many cases are reported to APS; what types of abuse those cases allege; how many are substantiated after investigation; the age, gender, living arrangement, cognitive and other impairments, etc. of the victims; the age, gender, cognitive and other impairments, and the relationship to the victim, of the abusers; what interventions are put into place; why the cases are closed; and other basic data. Such an effort will require identifying the essential common data elements and learning from those states that do have their own strong centralized automated data systems, including Texas and Illinois. One challenge will be the fact that the majority of APS data systems are integrated into other systems such as child protective services, so it may be difficult to extract APS-only information. A national APS data system would be the most efficient way to begin to ascertain the scope and nature of reported elder abuse.
4. Adequate training is urgently needed for APS personnel including investigators, case workers and supervisors at all levels. NAPSA worked closely with California's Project MASTER at San Diego State University to develop the NAPSA-identified 23 core competency modules (list provided as an appendix to this paper) for use in training their state's APS personnel. The modules are based on the latest research, have all been piloted and evaluated, and are now developed.<sup>8</sup> The topics range from initial investigation, sexual and physical abuse, neglect, self-neglect and financial exploitation to case planning and case closure. Resources are now needed to adapt the California modules into a nationally accessible, web-based training and certification program which can be utilized by every state and by every APS professional. This step would go a long way to standardizing not only APS training but also APS practices across the US.
5. It is not only necessary but just to ensure that a) federal victim services funds, such as those provided through the Victims of Crime Act (VOCA), the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA) are allocated to older victims in proportion to their numbers and needs, and b) older and vulnerable adult victims, and their victim response systems, are represented in the planning and programmatic decision-making for these programs. Older victims of abuse are underrepresented by these other victim services' programs both in terms of

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<sup>5</sup> Schillerstrom, et al. *Informing Evidence Based Practice: A Review of Research Analyzing Adult Protective Service (APS) Data*. Submitted for publication, 2012.

<sup>6</sup> National Adult Protective Services Resource Center and National Council on Crime and Delinquency. *Evidence-Based Practices in Adult Protective Services: Survey Results*. 2012.

<sup>7</sup> N.L. Denburg, C.A. Cole, M. Hernandez, T.H. Yamada, D. Tranel, A. Bechara, and R.B. Wallace, "The Orbitofrontal Cortex, Real-World Decision-making, and Aging," *Annals of the New York Academy of Sciences* 1121 (2007): 480.

A. Knight and D. Marson. "The Emerging Neuroscience of Financial Capacity," *Generations* (Summer, 2012).

<sup>8</sup> Several are awaiting final approval by the Office for Victims of Crime at USDOJ.

the dollars allocated and in the services provided.<sup>9</sup> Elder abuse victims have been in the shadows for far too long. Federal policy and resources should not perpetuate the inequities.

6. Federal employees and contractors in federally-funded systems and programs that interact with older adults, especially those who employ large numbers of mandated reporters, need to be educated about elder and vulnerable adult abuse and about APS – what its authority is and when it should be called upon. The Veteran’s Administration is one example of such a system.

Moreover, APS clients – that is, victims of abuse – should be considered a priority class for federally-funded services (e.g., aging and disability services, housing). This could be accomplished through administrative guidance provided by the Executive Branch or through federal law.

7. There is a particular need to strengthen the Aging Services and Disabilities Services Networks’ partnerships with APS at the state and local levels, especially with respect to providing emergency and temporary services for victims, screening for abuse and reporting suspected abuse. We believe every effort should be made to encourage or even require funded entities to work with the appropriate state or local APS programs. The aging services network needs to be better educated about recognizing, reporting and responding to elder abuse (and non-elder adult abuse). With 47 states having mandatory reporting laws, aging services network personnel, along with many others, must be trained about their obligations and what more they can do when encountering victims of abuse.

At NAPSA’s annual conference in mid-October, 2012, Mary Lynn Kasunic, Executive Director and CEO of the Phoenix-based Area Agency on Aging Region One, and her Arizona counterparts from APS and law enforcement, spoke eloquently and forcefully about the importance of collaboration among the three fields. In particular, Ms. Kasunic noted her commitment to placing APS clients at the top of lists for needed services such as case management, shelter, home care; that is, they are not placed on current waiting lists for services.

As we can expect wait-lists for aging services to grow, APS clients everywhere should be considered a high priority for services, if not next in line. This is a matter on which the federal government can provide forceful leadership. Moreover, the Older Americans Act (OAA) should be amended to ensure that APS clients are *de facto* considered a top priority for OAA and other aging services. Similarly, this could be a part of other key federal programs such as those provided by the Centers for Medicare and Medicaid Services (CMS) and the U.S. Department of Housing and Urban Development (HUD).

8. While APS programs routinely work with law enforcement and the criminal justice system, much more must be done to strengthen the capacities of police, prosecutors and judges to adequately respond to elder abuse and to work with their corresponding APS systems. We believe it is important to expand training for law enforcement, prosecutors and judges well beyond the primarily VAWA-defined crimes to all forms of elder and vulnerable adult abuse, including self-neglect, and to make the training widely and easily available throughout the country. While it is important to recognize that not all elder abuse is criminal in nature, the abuse that is or may be needs to be thoroughly investigated and prosecuted.

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<sup>9</sup> Testimony of Marie-Therese Connolly Senior Scholar, Woodrow Wilson International Center for Scholars, Director, Life Long Justice (an elder justice initiative of Appleseed) before the Senate Special Committee on Aging hearing on *Justice for All: Ending Elder Abuse, Neglect and Financial Exploitation*, March 2, 2011

APS plays an especially critical role in investigating and addressing elder financial exploitation, which is both increasingly common and increasingly complex, and which can serve as the motivation for co-occurring physical abuse and neglect. APS needs the assistance of the criminal justice system to hold criminal exploiters accountable and to seek redress for their victims. The criminal justice system should no longer be able to get away with ignoring criminal elder financial abuse by stating “it’s a civil matter.” While there are excellent examples of committed and effective criminal justice practitioners addressing elder abuse, these efforts need to be the routine and not the exception. Moreover, as established by a study in Utah, effectively intervening to prevent ongoing financial exploitation saves taxpayer dollars as well.<sup>10</sup>

9. The recently established National APS Resource Center (NAPSRC) must be continued and made a permanent part of federal law. Assistant Secretary for Aging, Kathy Greenlee, and the Administration on Aging deserve a great deal of recognition for the decision to fund the first-ever National APS Resource Center, as recommended by the GAO in their landmark report: *ELDER JUSTICE: Stronger Federal Leadership Could Enhance National Response to Elder Abuse*.<sup>11</sup> There are numerous federally-supported technical assistance/resource centers for addressing abuse of other populations, but until 2011 there had never been a center devoted to APS. While the National Center on Elder Abuse provides information about elder abuse in general, it does not focus on the skills and knowledge specifically needed by APS practitioners or other specific APS-related matters.

NAPSRC provides an essential vehicle for information exchange and mutual education among state and local APS programs, through producing urgently needed information, such as the report on APS cited earlier, frequent webinars and materials on research and training topics needed by the field, and a regular newsletter, as well as by responding to numerous requests for information and technical assistance by both programs and individuals. In the coming months, the NAPSRC will continue its focus on evidence-based practices, by examining how other similar fields are utilizing evidence-based practices to determine if any of their expertise and experience can be applied to APS.

The NAPSRC is an important step toward building a modest national infrastructure to support and strengthen APS. This center needs to be an on-going part of the federal response to elder abuse. The comprehensive OAA reauthorization legislation (S. 3562) introduced by Senator Sanders with 16 cosponsors in September 2011 includes provisions offered in separate legislative proposals by Senators Blumenthal and Franken to make the NAPSRC a permanent part of the OAA, as has been done with other AoA-funded centers, such as the National Ombudsman Resource Center and the National Center on Elder Abuse.

10. The enactment into law of the EJA as part of the Affordable Care Act was greeted with immense relief and excitement by the nation’s APS community. Among its many important provisions (including establishing the EJCC), the Act authorizes the first-ever funding specifically devoted to supporting states in delivering APS to victims of abuse. NAPSA estimates that if the full \$100 million authorized were appropriated it could provide as many as 1,700 new APS investigators and case workers to directly respond to and help older victims. Moreover, the EJA authorizes funding for HHS to research and test new and better approaches to APS, to improve data collection and to test many other means of strengthening states’ APS. The Act would also establish a federal “home” for APS.

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<sup>10</sup> Jilene Gunther. The Utah Cost of Financial Exploitation. Utah Division of Aging and Adult Services. March, 2011.

<sup>11</sup> ELDER JUSTICE: Stronger Federal Leadership Could Enhance National Response to Elder Abuse. GAO-11-208. March 2, 2011.

Currently, no federal agency is tasked with supporting or even addressing APS. Assistant Secretary for Aging Greenlee, to her credit, has indicated her desire for AoA/ACL to have that responsibility.

The EJA would address each of these key needs of APS. But the great promise of the new law, especially the authorized support for states and communities as they attempt to keep their APS systems reasonably responsive to the growing demand for their services, is unfulfilled in the absence of appropriations. Again, not a dollar has been appropriated under the EJA (or any federal law) specifically for APS.

On a related note, it is essential that the Social Services Block Grant (SSBG), which helps support APS in the majority of states, be maintained at least at its current funding level. Eliminating or reducing SSBG would deal a catastrophic blow to many already-struggling APS programs and more importantly, to their clients.

Beyond our ten recommendations there are other needs in the APS field which could and should be addressed through federal attention, such as amending or clarifying the Health Insurance Portability and Accountability Act (HIPAA) to make it clear that records can be released to APS; allowing for interstate compacts<sup>12</sup> among state APS programs to ensure that APS clients who are transported across state lines can be readily found and helped by another state's APS program, and that the state programs can share relevant client information; and requiring financial institutions to provide client records to assist in APS financial abuse investigations. Furthermore, helping to build and support a strong network of elder death review teams across the country could greatly advance knowledge about elder abuse for a very small investment of resources.

Finally, NAPSA would be remiss in not highlighting the great need for more federal attention to elder abuse in Indian country. In 2011, when Assistant Secretary for Aging Greenlee provided the first-ever funding for the NAPSRC she also provided first-time funding for a national center to focus on abuse of American Indian and Alaska Native (AI/AN) elders. That is an important first step for which she and AoA deserve much recognition but much more must be done. Congress has yet to appropriate a single dollar to the Indian part of Title VII, the Elder Rights Title, of the OAA, which was enacted into law in 1992 – **20 years ago**. APS is a state and county-based system. Federally recognized Indian tribes are sovereign nations. There are good examples of collaboration between tribal authorities and state APS but much more must be done to improve the delivery of appropriate APS services within Indian country. Older Indians deserve strong protective services systems constituted according to their own cultural values and norms.

Each of the recommendations made herein are of great importance to APS and those served by APS. The long-term significant lack of federal leadership and resources has meant that the states' APS programs are not coordinated, that there is no standardization among programs, that little APS-specific research has been done, and that innovations have not been tested, validated and replicated. A continued absence of federal responses will result in crises for a system already strained, given the current and future rising numbers of older persons. APS, as the only statutorily-authorized and universal victim services system for elder and vulnerable adult abuse, must be equipped with needed tools and resources to adequately respond to the serious and widespread problem of elder abuse. To deny vulnerable older Americans and other

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<sup>12</sup> Article I, Section 10 of the United States Constitution provides that "no state shall enter into an agreement or compact with another state" without the consent of Congress.

dependent adults a strong system of protection against abuse, neglect and exploitation is in itself a form of neglect, if not worse.

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CALIFORNIA APS CORE COMPETENCIES TRAINING MODULES		
Course Title	Target Date Availability	Type of Training
<b>Understanding APS</b>		
<a href="#">APS Overview</a>	Available	e-learning
<a href="#">APS Values and Ethics</a>	Available	Instructor led
<a href="#">Agency Standards: California Regulations for APS</a>	Available	e-learning
Collaboration and Resources	Awaiting OVC Approval	Instructor led
<b>Basic Skills</b>		
<a href="#">Initial Investigation: Taking the First Steps</a>	Available	Instructor led
<a href="#">Professional Communication Skills</a>	Available	Instructor led
<a href="#">APS Case Documentation and Report Writing</a>	Available	Instructor led
Case Closure	Awaiting OVC Approval	Instructor led
<b>Issues in Aging, Health and Behavioral Health</b>		
<a href="#">The Aging Process</a>	Available	e-learning
Physical/ Developmental Disabilities	Available (Pilot Version)	e-learning
Mental Health Issues	Available (Pilot Version)	e-learning
Substance Abuse	Available (Pilot Version)	e-learning
<b>Understanding Issues of Abuse</b>		
<a href="#">Dynamics of Abusive Relationships</a>	Available	Instructor led
<a href="#">Self-Neglect</a>	Available	Instructor led
<a href="#">Caregiver or Perpetrator Neglect</a>	Available	Instructor led
Physical Abuse	Fall 2012	Instructor led
Sexual Abuse	Awaiting OVC Approval	Instructor led
<a href="#">Financial Exploitation</a>	Available	Instructor led
<b>Financial Exploitation - topic specific e-learning mini-modules</b>		
<a href="#">Identity Theft and Credit Card Fraud</a>	Available	e-learning
<a href="#">Power of Attorney Abuses</a>	Available	e-learning
<a href="#">Deed Theft and Foreclosure Rescue Scams</a>	Available	e-learning
<a href="#">Undue Influence</a>	Available	e-learning
<a href="#">Living Trust and Annuities Scams</a>	Available	e-learning
<a href="#">Reverse Mortgage Abuse</a>	Available	e-learning
<b>Investigating Abuse: Multi-Disciplinary Perspectives</b>		
<a href="#">Investigation: Client Capacity</a>	Available	Instructor led
Investigation: Risk Assessment	Awaiting OVC Approval	Instructor led
Legal Issues and Law Enforcement	Awaiting OVC Approval	Instructor led
<b>Case Planning</b>		
Voluntary Case Planning and Intervention Process	Awaiting OVC	Instructor led

CALIFORNIA APS CORE COMPETENCIES TRAINING MODULES		
Course Title	Target Date Availability	Type of Training
	Approval	
<a href="#">Involuntary Case Planning and Intervention Process</a>	Available	Instructor led

See: [http://theacademy.sdsu.edu/programs/Project\\_Master/core.html](http://theacademy.sdsu.edu/programs/Project_Master/core.html)

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