



ELDER MISTREATMENT ISSUES & UPDATES

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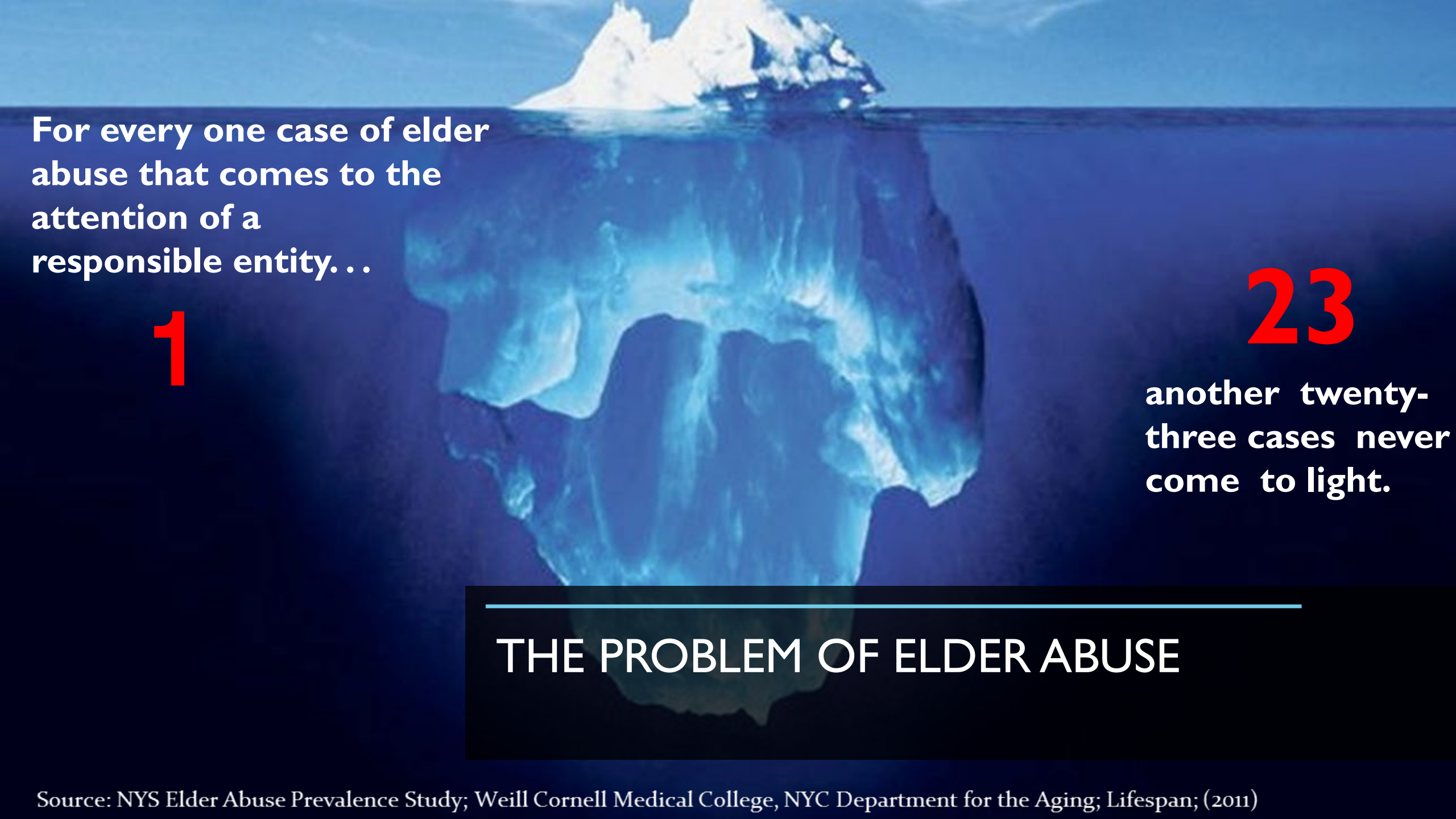
Current Elder Abuse Issues



Combatting Abuse:
APS & LTCO Program Criteria



What's on the Horizon?

An iceberg floating in the ocean. The tip of the iceberg is above the water line, while the vast majority of the iceberg is submerged below the surface. The water is a deep blue, and the sky is a lighter blue. The iceberg is white and jagged at the top.

**For every one case of elder
abuse that comes to the
attention of a
responsible entity...**

1

23

**another twenty-
three cases never
come to light.**

THE PROBLEM OF ELDER ABUSE

TIMELINE OF ABUSE PREVENTION LEGISLATION

CAPTA (1974) Child Abuse Prevention efforts and legislation, later amended to “Keeping Children and Families Safe Act of 2003”

VAWA (1994) Violence Against Women Act of 1994

2006 - Elder Justice Act was first introduced in the 107th Congresses. After five years before Congress, the Elder Justice Act (EJA) was signed into law by the 111th Congress in 2010 as part of the Patient Protection and Affordable Care Act -Public Law 111-148.

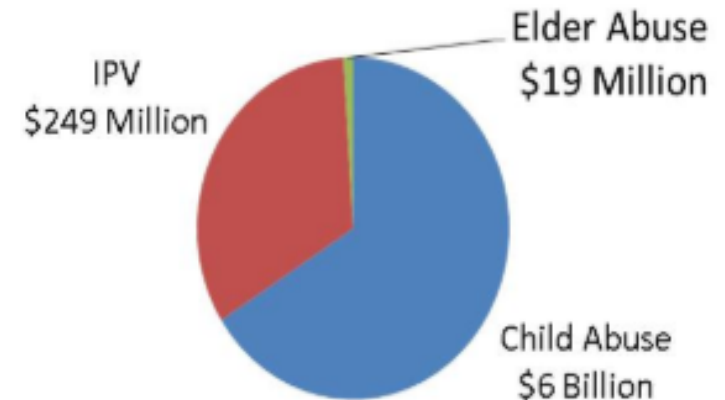
When the EJA was passed in 2010, it authorized \$777 million over 4 years, but appropriations didn't follow; not until FFY 2015 did we see just \$5 million appropriated by Congress.


WHY DOES LEGISLATION MATTER?

- “Elder Abuse lags behind the fields responding to both child abuse and intimate partner violence, in **federal funding**, in our **knowledge** about the problem, and in our **response systems**.”

--<https://www.giaging.org/issues/elder-abuse/>

Federal Funding for Family Violence (annual)





Combatting Abuse: APS & LTCO Program Criteria

COMBATTING ABUSE: THE ROLE OF ADULT PROTECTIVE SERVICE PROGRAMS

- Disabled adults are vulnerable to abuse, neglect, and exploitation. Each county DSS receives and evaluates reports to determine whether disabled adults are in need of protective services and what services are needed.



REPORTING ELDER ABUSE

NC has a law that applies to disabled adults who might be abused, neglected, or exploited and may need protection.

If you have reason to believe that an older or disabled adult has been abused, neglected, or exploited – you **must** contact the county Department of Social Services.

Source: NC General Statutes 108A-100

APS CASES FOLLOW THESE GENERAL STEPS:

Step 1

Report received by DSS.

Step 2

DSS screens the report to determine if it meets criteria and has authority to conduct an APS evaluation.

Step 3

If DSS has authority, it will “screen in” the report and conduct an evaluation that will include meeting the adult, determining capacity, interviewing caretakers, etc.

Step 4

At the conclusion of the evaluation, DSS will decide whether to proceed with either offering protective services to the adult or requesting a court order authorizing the agency to provide protective services.

“SCREENING OUT” ABUSE REPORTS



If DSS determines that it does not have the authority to provide protective services, the report will be “screened out.”



About 50% of all APS reports are screened out.



There are 3 reasons an APS report may be screened out.

SCREEN OUT REASON #1: NOT A “DISABLED ADULT”

- A “disabled adult” is: any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.



SCREEN OUT REASON #2: NO NEED FOR “PROTECTIVE SERVICES”

One of the initial questions DSS will explore with the reporter is whether the adult needs services to protect him or her from abuse, neglect, or exploitation. In order to move forward with the evaluation or provision of services, the agency must conclude:


The adult is unable to perform or obtain essential services because of his or her physical or mental incapacity; and

No able, responsible, and willing person is able to perform or obtain the essential services for the adult.

A service is considered “essential” if it is necessary to safeguard the adult’s rights and resources and maintain his or her physical or mental well-being. Essential services could include medical care, food, clothing, shelter, protection from abuse, etc.

SCREEN OUT REASON #3: ABUSE BY SOMEONE OTHER THAN A CARETAKER

DSS's authority extends to abuse, neglect, and exploitation. For exploitation, the alleged perpetrator may be anyone. For abuse or neglect, however, DSS has authority to act only if the alleged perpetrator is the disabled adult's "caretaker" or in cases that may involve self-neglect.



A caretaker is "an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract."

ADULTS MAY REFUSE OR WITHDRAW CONSENT

DSS receives a report and screens it in

A social worker will meet with the adult as soon as possible, consult with other people connected to the adult, and gather records from providers and/or financial institutions.

The goal is to determine whether the case should be “substantiated” – in other words, are protective services necessary and appropriate?

If substantiated, DSS must then determine whether the disabled adult has capacity to consent to those services.

If the adult has capacity and ultimately refuses the offer to provide services, that is the end of the case.

DSS does not have the authority to compel an adult with decisional capacity to accept services.

If the adult initially consents, and later withdraws that consent, DSS must abide by that decision.

COMBATTING ABUSE: THE ROLE OF THE LTC OMBUDSMAN PROGRAM

The Long-Term Care Ombudsman Program (LTCOP) is required to “identify, investigate, and resolve complaints that ... relate to action, inaction or decisions that may adversely affect the health, safety, welfare, or rights of residents.” (OAA Section 712(a)(3)(A), (a)(5)(B)(iii); 45 CFR 1324.13(a)(1), 1324.19(a)(1),(b)).


Complaints regarding abuse, neglect and exploitation of residents DO fall within the Ombudsman Program purview.




However, the LTCOP is NOT the official investigator/substantiator (or, finder of fact) for abuse complaints on behalf of the state or other governmental entity.

COMBATTING ABUSE: THE ROLE OF THE LTC OMBUDSMAN PROGRAM

With appropriate resident consent, the Ombudsman program makes a referral to the appropriate protective service, regulatory, or law enforcement entity to investigate for its respective purpose.



The LTCO investigates solely for the purpose of gathering necessary information to resolve the complaint to the resident's satisfaction, NOT to substantiate whether the abuse or other allegation occurred.



The Ombudsman does not have a duty to collect sufficient evidence to meet the higher legal standards of proof that protective services, licensing or regulatory agencies, or law enforcement may need to meet.



COMBATTING ABUSE: WHAT'S ON THE HORIZON?

Awareness

- Variety of trainings, webinars, podcasts, scam alerts, etc.
- Circle expanding to include: opioid crisis, veterans, domestic violence, banking industry, loneliness projects, law enforcement education, trafficking, even animal abuse.

Reporting

- NAMRS, the National Adult Maltreatment Reporting System was started in FFY2016, creating a comprehensive, national data reporting system for APS programs.

Funding

- January 2019 - Administration for Community Living announced a \$3 million investment over the next three years to continue efforts to strengthen Adult Protective Services.

Technology

- New virtual assessment programs using videophones and web-based portals to make geriatrician and elder mistreatment expert assessments (medical, mental health, abuse determinations) timely and available to any Adult Protective Services client.

Housing

- Pilot programs to fund Elder Shelters emerge, in response to the need for safe shelters for victims of abuse.

Collaboration

- No single agency/entity can address elder abuse!
- Federal: EJCC – Elder Justice Coordinating Council advocacy & resources
- State: NCP3A - North Carolina Partnership to Address Adult Abuse
- Local: Multi-Disciplinary Teams (MDTs) and task forces



QUESTIONS?

REFERENCES

- <https://canons.sog.unc.edu/limitations-authority-role-adult-protective-services-programs/>
- <https://acl.gov/programs/protecting-rights-and-preventing-abuse>
- <https://acl.gov/programs/long-term-care-ombudsman/long-term-care-ombudsman-faq>
- <https://www.giaging.org/issues/elder-abuse/>