

Testimony of
Kathleen M. Quinn
Executive Director, National Adult Protective Services Association
Senate Special Committee on Aging Hearing:
Broken Trust: Combating Financial Exploitation of Vulnerable Seniors
February 4, 2015

Chairman Collins, Ranking Member McCaskill and Members:

I am Kathleen Quinn, the Director of the National Adult Protective Services Association, or NAPSA, which represents Adult Protective Services (APS) programs, professionals and most importantly, older persons and adults with disabilities who are mistreated in more ways than any of us can imagine. We have hundreds of members from every state and several territories, and we're very proud to have been one of the founders of the Elder Justice Coalition.

Thank you for the opportunity to speak to you today about three things:

- a rampant, largely invisible, expensive and lethal problem,¹
- the largely invisible army of underpaid, under-resourced and often under-trained adult protective services programs and professionals who struggle daily to meet the needs of our country's most vulnerable adults,
- suggestions for legislation and policies to address some of these problems.

Elder Abuse

The problem I am speaking about is, of course, elder abuse, in particular elder financial exploitation. Although there is far too little research on the issue, an issue which itself needs to be addressed, the research we do have tells us the following.

¹ See attachment to this document for citations.

- About one in ten persons 60 and older have been abused, neglected or financially exploited in the last twelve months. With 10,000 people turning 65 every day for the next decade and a half, it means that about a 1,000 of them are mistreated.
- This translates into approximately 5 million victims annually. Compare this to an estimated 1.25 million child abuse victims and 2.3 domestic violence victims, which combined receive billions of dollars in federal support for direct victim services, training, data systems, information sharing and infrastructure, although together they represent less than three-quarters of the number of elder abuse victims.
- Elder abuse kills: victims of any type of elder abuse are three times more likely to die than their non-abused age cohorts. This is far more deadly than many of the diseases into which we pour many millions of dollars for research and treatment.
- Elder abuse is expensive:
 - Victims and their families lose assets that took the older persons a lifetime of hard work to build. These losses directly affect their health and well-being, resulting in invisible, increased costs to Medicare.
 - Financial institutions lose billions in assets, as the money stolen is usually snorted, smoked, drunk or gambled away.
 - The taxpayer loses as well; one study found that 9% of financial abuse victims had to go on Medicaid as a direct result of having their own assets stolen.
 - Since elder abuse victims are four times more likely to enter nursing homes than other seniors, this also translates into huge but hidden costs to Medicaid.
- Elder abuse is complex: many if not most victims are abused in multiple ways, and in some cases by multiple abusers.
- Financial exploitation is closely associated with physical and emotional abuse (victims are bullied and beaten so the abuser can get access to their assets) and neglect, which is often underestimated, but undoubtedly causes countless premature, enormously painful, and

excruciatingly drawn-out deaths. Abusers don't want to pay for the victim's expensive personal care, medical care and drugs, or even nutrition and hydration, because they view the victim's money as their own.

- Sadly, and too many, shockingly, the vast majority (90%) of reported elder abuse is committed by the older victim's own family: adult children, grandchildren, nieces and nephews, and sometimes siblings. Much of the rest is perpetrated by trusted friends, neighbors, caregivers and even attorneys and clergy.²

Lack of Action

- So the fastest growing population group by far is subjected to extremely high rates of abuse, neglect and exploitation, costing them their dignity, well-being, health and safety, financial assets and even lives, and also costing the government and financial institutions billions of dollars. But although the first Congressional hearings on elder abuse were held in the 1970's, the federal government has decided to essentially ignore this problem for half a century, although there has been some progress in the last few years thanks to the Elder Justice Coalition, the Elder Justice Act and the leadership of Assistant Secretary Greenlee at the Administration for Community Living.
- Yet there remains no dedicated federal funding for the only nationally available, statutorily authorized, services system for the most vulnerable victims, those who cannot protect themselves – APS. It should be noted that adults with disabilities and older persons are the *only* victims of crime and abuse which received no designated support from our national government.
- There is a woefully inadequate (embarrassing, really) level of research into this devastating and increasingly common public health, public safety, economic and justice crisis. The National Institute of Justice spends \$1M a year. According to testimony presented to this committee in 2011, the National Institute on Aging spends 1/1000 of

² National Elder Abuse Incidence Study. 1998. Washington, DC: National Center on Elder Abuse at American Public Human Services Association.

its budget on studying elder abuse, and I suspect by now it may be even less than that.³ The CDC has received zero dollars to work on elder maltreatment.

- *What is a very rarely acknowledged phenomenon, federal investment in addressing both child abuse and domestic violence has resulted in significantly reducing the incidence rates of both. Yes, federal programs and support can and do work, in these cases saving the lives and well-being of countless women and children*

Adult Protective Services

APS is the single, dedicated, authorized victim services system for elder abuse. It exists in every community in the US, operating under state laws. APS receives reports of elder abuse, neglect and exploitation of older people and in most states, of younger adults with severe disabilities.⁴ APS clients are adults who cannot, by definition, protect themselves from predators. APS then investigates the allegations made, determines if abuse is occurring, and then does everything it can to prevent the maltreatment from continuing.

In its roles and functions, APS is comparable to child protective services with two critical differences: one, APS deals with adults, who, unless adjudicated incompetent by a court of law, have the right to live their lives as they see fit. This includes making a lot of “bad” decisions by the standards of the larger community. The hardest thing APS deals with is deciding when and at what point clients are unable to make their own decisions. Secondly, APS has very few resources vis a vis child protective services. Although it is dealing with an exploding population and ever more complex cases, APS programs often must deal with decreasing numbers of staff and resources. Between 2007 and 2012, almost half of state APS programs had their budgets cut while 87% saw their reports and caseloads increase, some by as much as 100%.

NAPSA, with modest but extremely valuable funding from ACL for the first and only national APS Resource Center, is the national organizing force for APS. NAPSA offers direct technical assistance to APS programs and professionals; provides the only national, annual conference on

³ Testimony of Marie-Therese Connolly, Senior Scholar, Woodrow Wilson International Center for Scholars, Before the Senate Special Committee on Aging hearing on Justice for All: Ending Elder Abuse, Neglect and Financial Exploitation, March 2, 2011

⁴ Note: a few states allow APS to respond to victims above age 60 or 65 regardless of whether they have disabilities.

elder abuse, abuse of younger adults with disabilities, and APS; offers multiple training webinars and briefs on research with implications for practice, a national listserv for APS professionals to share concerns and solutions, and reports on innovative and cost-saving practices; and has issued the first ever National Minimal Standards for APS Programs. In addition, NAPSA has partnered with San Diego State University to develop comprehensive, high-quality training curricula for APS investigators and supervisors, and recently received foundation funding to create a national APS certificate program in an effort to improve and standardize APS practice. While a barista at Starbucks has to go through 24 hours of training before pouring a single cup of coffee, in some states APS investigators can be sent out to make life-altering decisions for older adults with no training whatsoever.

Especially relevant to this hearing, in 2010 NAPSA began to hold annual National Elder Financial Exploitation Summits to bring together not only APS, but also the financial services industry, regulators, advocates, and private industry to address the many forms of elder financial abuse and to explore successful strategies for addressing them. NAPSA has also formed a National Elder Financial Exploitation Advisory Board, also made up of advocates, APS, regulators, prosecutors and the financial services institutions, to plan the annual summit and to help NAPSA address financial exploitation as effectively as possible. We were fortunate to have a speaker at one of our previous Summits on the exciting bank programs which have been implemented in Maine. NAPSA, with some other organizations, will convene the 10th Anniversary World Elder Abuse Awareness Day Forum, which will focus on elder financial exploitation, here in Washington on June 15th, to which all of you are warmly invited.

APS is the necessary but not sufficient system which responds to elder abuse victims. It is an APS worker who right now is knocking on the door of a grandmother locked up in the back room, lying her own waste, hungry, thirsty and without the medications she requires, her hard-earned money draining away, wondering how her own children and grandchildren can be so cruel, wondering what she did wrong to be treated so horribly in their later years.

But in order to be able to effectively aid and protect the thousands of such victims across the country, APS itself needs help.

Federal support to state APS programs is desperately needed for them to be able to provide their life-saving, and asset-saving, services. The Elder Justice Act, passed in 2010 authorized \$125 million for this purpose. In 2015 the first EJA appropriation was approved for \$4 million, which I believe will be used to further the development of a desperately needed national APS data system, and for critically important research into what APS/elder abuse interventions work. This is really important, and a significant first step, but it does not help struggling state programs staggering under increasing caseloads.

There is a potential source of funding for APS which does not involve taxpayer funds. Congress just tripled the amount of funding able to be spent under the Victims of Crime Act (VOCA). Similar to what was done for child abuse, Congress could authorize a 10% set-aside of the \$2.3 billion available for VOCA to fund APS and other elder abuse initiatives. The other victims' services funded by VOCA, victim-witness, domestic violence and sexual assault programs, would still have available an almost three-fold increase of \$1.3 billion. Older victims have historically been woefully underserved by these three systems, so ideally they will each dedicate some of these increased funds to providing their own services to older people.⁵

An alternative would be to designate the VOCA funds made available from financial crimes for services to older victims, who are most often victimized by these types of offenses. Until now, financial crime victims in effect have subsidized victims' services to which they have had little access. VOCA already states that "the term "victim" means a person that has suffered direct physical, emotional, or *pecuniary* harm as a result of the commission of a crime."⁶

Finally, two-thirds of the states use part of their Social Services Block Grant (SSBG) funds to support their APS programs. There are calls for the elimination of SSBG. If this were to occur it would mean the elimination of APS in some states; in others, APS would be severely compromised, Furthermore, SSBG funds many of the community support services necessary to maintaining victims safely in their communities, including home-delivered meals, case management, transportation and other essential services. If these are significantly cut back,

⁵ See information attached to this testimony.

⁶ 42 USC Ch. 112. The crimes might include: Telemarketing fraud; Mail Fraud and other Fraud Offenses; Fraud and False Statements; Extortion and Threats; Embezzlement and Theft; Gambling and Lotteries (not in order). Emphasis added.

there will no choice but to put more older persons into long-term care facilities, at greatly increased costs to the government and greatly diminished quality of life for them. Also, the elimination of SSBG will put tremendous overall pressure on state human services budgets, undoubtedly resulting in yet more cuts to APS programs.

Financial Exploitation

Financial exploitation, which is generating an ever increasing number of reports, is especially complex and difficult to investigate. As noted above, it very often co-occurs with physical and emotional abuse and neglect. Its victims frequently lack cognitive capacity, making it very hard or impossible for them to provide information or even to understand their situations. The abuser son or daughter is often hostile and in some cases downright dangerous to the APS investigator. Multiple interventions may be required, including emergency medical care, neuropsychological exams, environmental clean-up, legal remedies, intra-family mediation, and of course steps to stem the loss of assets.

Federal policy and legislation could help with the latter. Eight regulatory agencies, under the leadership of the Consumer Financial Protection Board, issued a guidance to financial institutions in 2013 which made it clear that the Graham-Leach-Bliley (GLB) Act does not prohibit those institutions from reporting elder abuse to the proper authorities. But there is still a critical stumbling block, in that many banks refuse to share the client's financial records, even in cases when those banks have reported the suspected abuse. APS needs access to those records in order to substantiate that exploitation is occurring.

NAPSA believes that financial institutions *are* permitted to share such records under the GLB exceptions, which state that personal client information can “be shared under the following circumstances: 1) “A financial institution may disclose nonpublic personal information to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability, and 2) “to respond to a properly authorized civil, criminal, or regulatory investigation, or subpoena *or* summons by federal, state, or local authorities...”⁷ APS investigations are “properly authorized civil” investigations. This is something which this committee could

⁷(15 U.S.C. 6802(e)(8) and implementing regulations at .15(a)(7)(ii)-(iii)) and (15 U.S.C. 6802(e)(3)(B) and implementing regulations at .15(a)(2)(ii)). Emphasis added.

address, by encouraging the issuance of a revised federal guidance to the financial industry clarifying that in addition to reporting elder abuse they may also share the client's records with APS. Not to do so undermines the value of reporting in the first place, wastes APS' limited time and resources calling, writing, getting shunted from office to office, and seeking subpoenas. Most significantly, this unnecessary barrier allows the victim's money to continue to be drained. Timeliness is also a factor; in some cases the bank will eventually provide the records months later, long after the APS investigation has had to be closed. It is my experience that many financial institutions would welcome this clarification.

If possible, elder abuse reporting and record sharing by financial institutions could be further strengthened by granting immunity to financial institutions for doing so.

Secondly, financial institutions should be granted the authority to put a temporary freeze on a client's accounts when they have a reasonable belief that the person is being defrauded. I realize this is a highly complex recommendation which must be carefully constructed. However, there are countless instances of tellers, financial advisors and others having to watch an older person send money, to, for example, a Jamaican lottery scam. In many cases the older person cannot be persuaded that they are not going to be sent a check for millions of dollars. Allowing a brief hold would give the bank or advisor time to contact APS or take other measures. Some states currently allow APS or prosecutors to do this.

In conclusion, it is decades past the time for Congress to address the problem of elder abuse, and to finally invest in stopping and preventing it, so that the incidence rates can be reduced as they have been for other victims of family violence. This will not only protect older persons' lives and assets, over the long-term it will also reduce the demands on Medicare, Medicaid and other publicly-funded programs.

Below is a real-world example of this.

An older man ate in the same local diner every day. The diner owner became concerned when he became increasingly confused, and then acquired two new "best friends." The owner reported the situation to the man's bank, which, upon discovering that \$235,000 of the older man's money had been transferred into

other financial institutions, in turn reported the situation to APS and law enforcement. The police soon arrested a woman and her two adult sons, who had victimized who knows how many previous victims. The \$235,000 was transferred back into the victim's accounts. APS determined that he was not capable of continuing to live on his own, and he was placed in a long-term care facility, which he was then able to pay for with his own monies.

If this case had not been reported and responded to quickly, the man would have had to have had Medicaid pay for his care. Reporting and intervention saves lives and saves both victims' and taxpayers' money.

Surely our parents and grandparents, our aunts and uncles, the generations that fought the wars and built the economy that we all enjoy today, deserve a serious investment of funding for protective services, training, data systems, infrastructure and research, similar to the investments that has so benefited younger victims of crime and abuse. Without this, we as a country are continuing to tell them that their health, safety, dignity and lives are worth far less than those of younger people.

Citations from Research on Elder Abuse

One in nine seniors reported being abused, neglected or exploited in the past twelve months:

Acierno, R. e. (2010). Prevalence and Correlates of Emotional, Physical, Sexual and Financial Abuse and Potential Neglect in the United States: *The National Elder Mistreatment Study*. American Journal of Public Health, 100(2): 292-297. The report is available at: <http://www.ncjrs.gov/pdffiles1/nij/grants/226456.pdf>.

This study states: “the rate of financial exploitation is extremely high, with 1 in 20 older adults indicating some form of perceived financial mistreatment occurring at least one time in the recent past. Specific resources and civil remedies (e.g., dedicated prosecutors of financial mistreatment in geographic regions with high numbers of older adults) should be derived. Financial exploitation by family members and by strangers was increased among the more physically disabled adults, indicating perhaps a greater need for monitoring for this subgroup of elders.”

Elder abuse is vastly under-reported; only one in 23.5 cases is reported to any agency; for financial abuse it is one in 44 and for neglect it is one in 57.

Lachs, Mark, et al. (2011) *Under the Radar: New York State Elder Abuse Prevalence Study Final Report*. Lifespan of Greater Rochester, Inc.; Weill Cornell Medical Center of Cornell University and New York City Department for the Aging.

Note: this study found an elder abuse prevalence rate of 7.6% using a similar methodology to Acierno’s study but more stringent definitions of what constitutes abuse. The rate of coronary heart disease in 2006 was also 7.6%.

[American Heart Association. Heart Attack and Stroke Statistics 2009 Update at a Glance. <http://www.nanocorthx.com/Articles/HeartDiseaseStrokeStatistics.pdf>.]

Abused seniors are three times more likely to die:

Lachs, M. et al. (1998). *The Mortality of Elder Mistreatment*. Journal of the American Medical Association, Vol 280, No. 5, 428 – 432

Elder abuse victims are four times more likely to go into a nursing home:

Lachs, Mark. Testimony before the Senate Special Committee on Aging. March 2, 2011. Washington, DC.

Victims of abuse utilize healthcare services at higher rates:

Koss, M. P., Heslet, L. *Somatic consequences of violence against women* Arch Fam Med 1992. Sep;1(1):53-9. Archives of Family Medicine, 1, 53-59. (Those who had experienced abuse accessed the health care system 2 to 2.5 times as often)

90% of abusers are family members or trusted others:

90% of elder abuse and neglect incidents are by known perpetrators, usually family members. National Center on Elder Abuse, 1994. The National Elder Abuse Incidence Study: Final Report Washington, DC: Administration for Children and Families & Administration on Aging, US Department of Health and Human Services

95% of seniors live in the community:

2006 – 2007 census data: 1.8 million people live in nursing homes, 52.4 million people are age 60 and older = 3.4% of seniors in long-term care facilities

Almost one in ten financial abuse victims will turn to Medicaid as a direct result of their own monies being stolen from them.

Jilene Gunther. *The Utah Cost of Financial Exploitation*. March, 2011. Utah Division of Aging and Adult Services.

Federal Funding for Victims of Crime and Abuse 2010

Estimates	Child Abuse	%	Domestic Violence	%	Elder Abuse	%	Total	General Crime Victims
No. of Victims	1.25M ⁸	13.5	2.3M ⁹	25	5.7M ¹⁰	61	9.25M	21.2M ¹¹
Federal Funding for All Victims Services	\$7.4B ¹²	93	\$551.8M ¹³	5	\$10.9M ¹⁴	2	\$7.97B	635M ¹⁵
Federal Funds Specifically for Elder Abuse (but not for services)					\$9.1M ¹⁶	100	\$9.1M	9.5M ¹⁷
Per Victim Spending	\$5,920		\$240		\$1.91¹⁸		\$862	

⁸ 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/nat_incid/index.html.

⁹ 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>.

¹⁰ Acierno, R., Hernandez-Tejada, M., Muzzy, W., Steve, K. National Elder Mistreatment Study Final Report. March, 2009. 48 & 71. 11% (one in nine) of persons 60 and older report being mistreated in some way in previous twelve months. The report is available on the USDOJ website at: <http://www.ncjrs.gov/pdffiles1/nij/grants/226456.pdf>.

¹¹ Press Release: VIOLENT CRIME RATE REMAINED UNCHANGED WHILE THEFT RATE DECLINED IN 2008. USDOJ Bureau of Justice Statistics. <http://bjs.ojp.usdoj.gov/content/pub/press/cv08pr.cfm>. 550,809 child abuse victims, and 2.1 million adult domestic violence & sexual assault victims, account for 68% of all victims served with VOCA funds.

¹² Administration for Children 2010 All Purpose Table. <http://www.acf.hhs.gov/programs/olab/budget/index.html> Total does not include funding for adoption incentives, runaway and homeless youth and other child welfare related programs and does not include SSBG funds. Does include funds for foster care.

¹³ Violence Against Women Act (VAWA) funding. FY2010 Appropriations Summary.

[www.womenspolicy.org/.../FY2010 Appropriations Summary 12-16-09 FINAL.pdf](http://www.womenspolicy.org/.../FY2010_Appropriations_Summary_12-16-09_FINAL.pdf)?

^{And} Family Violence Prevention and Services Act [P.L.98-457] FY2010 Appropriations Summary. Ibid. Note: fewer than 10% of victims served by shelters are age 50 or older: *From Meeting Survivors' Needs: A Multi-State Study of Domestic Violence Shelter Experiences (NRCDV found on vawnet.org) Most survivors (70 percent) were 25 to 49 years old. One in five was younger than 25 = 90% of dv shelter users were 40 or under). A press release on the study was headlined: "News Release - Domestic Violence Shelters Are Meeting Needs of Most Victims, Comprehensive Federally-Funded Study Finds"*^[3] Only 1.5% of all domestic violence (DV) programs have support groups specifically tailored for older women (from NCADV national list of DV programs and NCALL Abuse in Later Life (2008) directory)

¹⁴ Estimates based on 1% of total \$418.5M in VAWA funds and 5% of total \$133.3M in FVPSA funds are used for older victims (5% is a generous estimate).

¹⁵ Victims of Crime Act (VOCA) funding approved by US Senate Appropriations Committee for 2010 as reported at:

<http://www.nnedv.org/policy/issues/funding.html> and Nationwide Analysis Victims of Crime Act 2008 Victims of Crime Act Performance Report State Assistance Program U.S. Department of Justice Office of Justice Programs. VOCA funding cap was increased in the FY 2015 budget. <http://www.navaa.org/extlnk/lnkframe.htm?http%3A/www.ovc.gov/>.

¹⁶ \$5.1M in elder abuse prevention funding under the Older Americans Act and \$4M new appropriation under the Elder Justice Act. None of the funds go to direct victims' services.

¹⁷ Based on 1.5% of VOCA victims served being older (see report in no. 8 above).

¹⁸ Based on victims' services' funds only (\$10.9M)

General Notes

- This table is a general overview only and while every effort was made to be accurate, some of the figures are gross estimates (e.g. the percentage of older victims served by FVPSA funds).
- The table was created in 2010. Two updates were made in FY2015 to include recent appropriations for the Elder Justice Act. No other numbers have been updated. Users are encouraged to update it.
- All data are sourced; users are encouraged to check the findings and to correct the table as necessary.
- The estimates by category for the number of victims are drawn from different types of sources. For child abuse, elder abuse and domestic violence, the numbers are based on research studies which estimated the numbers of victims of each in a twelve month period; for general crime victims the numbers are derived from federal crime statistics.
- Judgments were made on what programs to include, especially with regards to child abuse. There are many child welfare programs; only those most directly related to child abuse were included.
- The Older American Act elder abuse funds are designed for prevention and other similar activities; not for direct services to elder abuse victims. Neither is the new (FY 2015) Elder Justice Act \$4M appropriation for services to victims.
- The Long-Term Care Ombudsman Program (LTCOP) funds are not included because the LTCOP is a broader advocacy program, not limited to abuse and neglect; furthermore it is not responsible for abuse investigations except in a handful of states.
- It is likely that some older victims are served by domestic violence and VOCA funds without being identified as elder abuse victims. But, two-thirds of victims receiving VOCA funded services are either child abuse or adult domestic violence and sexual assault victims, so the totals for those two groups, using only their own dedicated funding streams, are significantly underestimated.
- SSBG funds are not included for any groups.