

# Protecting the Wealth of the Vulnerable Elderly



June 15th, 2021

# Presented by



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Newly “retired” Deputy District  
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Today, June 15th, is....



# WORLD ELDER ABUSE AWARENESS DAY

Building Strong Support for Elders

Background...

10 years as a solicitor from  
1981 - 1991

From UK lawyer to  
California prosecutor

1991...



Joined a civil law firm for 2  
years

Then in 1993...





1260  
DISTRICT  
ATTORNEY

ESTABLISHED 1850

Family Protection Division  
Sex Crimes and Stalking Division



I spent 22 years of my 25  
years as a prosecutor  
prosecuting nothing but..

Crimes committed against  
elders & dependent  
adults

California - like many  
other states - codified the  
crime of elder &  
dependent adult abuse

In California the criminal code section for the crime of elder abuse is...

Penal Code 368

Who are our victims under  
the code?

Elders & dependent  
adults

Elder = 65+

Dependent adult = 18 to 64  
with mental or physical  
limitations

Those limitations restrict  
victim's ability to carry  
out normal activities or to  
protect his or her rights

Many of these victims  
were challenged by some  
form of mental  
impairment or other  
vulnerability...

## PC 368

- Physical abuse, mental abuse or neglect
- Financial abuse by non caregiver
- Financial abuse by caregiver
- False imprisonment

In each of these acts..

- Have to prove that Defendant knew or reasonably should have known that victim was an elder or dependent adult

Over 65% of all the cases  
that I prosecuted involved  
financial exploitation

Lessons learned....

The exploitation of the  
wealth of vulnerable  
elders is a global problem

Too many cases of such  
exploitation are not being  
identified, investigated or  
prosecuted

Too often the response is ..  
“It is just a civil matter”

Or there is a failure to  
recognize elder  
exploitation as a crime

Such exploitation does not  
just impact elders  
financially..

# Assess the impact of the crime

- Financial
- Emotional
- Residual

# The fight against senior scams

‘Financial abuse’ is now officially a U.S. public-health concern. Inside the movement to get it under control—and what’s slowing it down.

09/27/2017 05:01 AM EDT

The U.S. Centers for Disease Control and Prevention might be best known for its efforts to combat obesity, or Zika, or the H1N1 flu virus. But last year, it drew new attention to a hazard that doesn’t sound like a disease at all.

The hazard is “senior financial abuse,” meaning the theft of older people’s resources by someone they trust.

Alarmed by the growing cost of the problem and the lack of a clear strategy to combat it, the CDC included in a first-of-its-kind report a definition for what constitutes the financial exploitation of old people. It includes fraud, breach of personal trust, poor investment advice, or improper use of power of attorney.





# Suicides of four victims in pension fund scam

- **Hundreds fell victim to pension investment scams, campaigners revealed**
- **Put money into schemes that promised access to fund before they were 55 without having to pay tax because of legal loophole**
- **They are now liable to pay a 55 per cent tax charge on money they took out**
- **One investor has lost £220,000 and many others expect six-figure bills**

My experience has  
convinced me that other  
countries also should  
adopt an elder abuse  
criminal statute

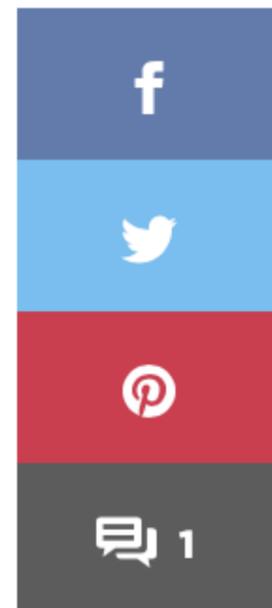
Why now?

If you believe the headlines  
then we are in for a  
challenge..

# Elder Financial Abuse Is a ‘Virtual Pandemic,’ and on the Rise

**Local fraud expert says incidences of elder financial exploitation are up 30 to 40 percent since the COVID-19 pandemic began.**

BY WILL MADDOX | PUBLISHED IN HEALTHCARE BUSINESS | SEPTEMBER 30, 2020 | 11:00 AM



The COVID-19 pandemic is exacerbating a growing problem for seniors in the United States: elder financial abuse. With the elderly more isolated from their loved ones than ever, they are becoming more susceptible to losing their savings to clever fraudsters.

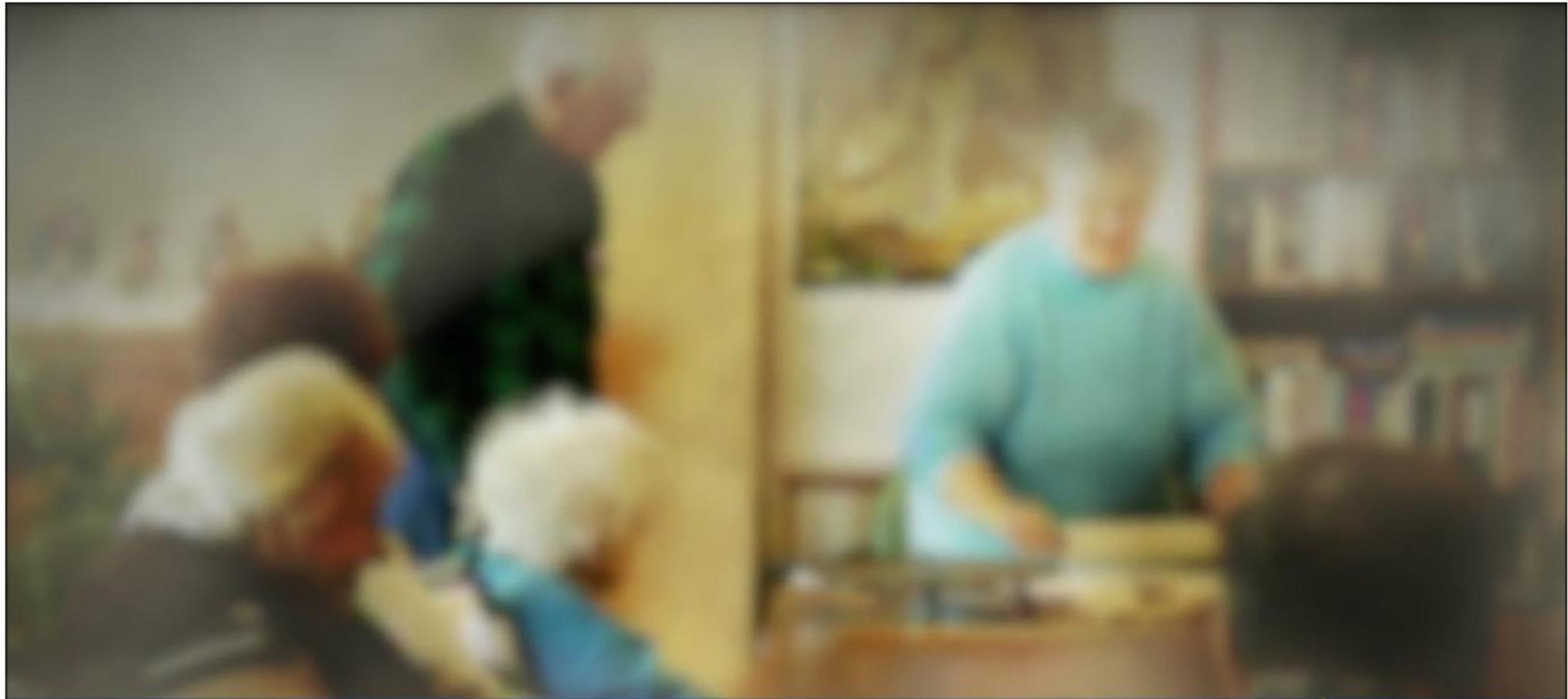
The *New England Journal of Medicine* called the problem a “virtual epidemic” in 2015, and healthcare providers can help identify the problem.

# Elderly Financial Exploitation & Scams Rising

🕒 April 7, 2020 📄 Nursing Home Abuse And Neglect 📌 elder financial abuse, Financial Abuse



# Elder justice advocates fear financial exploitation of seniors on the rise



KSTP.com  
5:40 34°



**ELDER ABUSE DURING THE PANDEMIC**

EYEWITNESS  
**NEWS**

# Rise in financial elder abuse cases since COVID-19 pandemic began



# **Survey reveals alarming rise in financial abuse of the elderly**



# Elder Financial Abuse on the Rise during the Pandemic

*"The pandemic is isolating many elderly Americans—as family members distance themselves, in an effort to keep everyone safe."*

The same isolation that is keeping seniors safe during the pandemic is also making them easier targets for scammers, reports WKYC in a news report ***"Northeast Ohio family warns of elder financial exploitation."*** While this report concerns a family in Ohio, seniors and families across the country are seeing elder financial abuse on the rise during the pandemic.

# | New Analysis from FinCEN Notes Uptick in Elder Financial Exploitation

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ON DECEMBER 5, 2019

COMPLIANCE AND RISK, NEWSBYTES

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The number of Suspicious Activity Reports related to elder financial exploitation has risen dramatically over the past several years, as seniors face increasing threats from both domestic and foreign actors, according to an [analysis](#) released last night by the Financial Crimes Enforcement Network. The survey examined SARs filed between October 2013 and August 2019 that related to elder fraud.

The case for codifying  
elder abuse as a crime

It would require  
Parliaments to provide a  
definition of what we  
mean by “elder  
exploitation”.

And why not?

We already have laws that  
define child abuse, human  
trafficking, DV, and  
stalking...

Having such a law would  
require us to pursue justice  
for what many believe are  
a forgotten generation

18 years ago...



House of Commons  
Health Committee

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**Elder Abuse**

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**Second Report of Session 2003–04**

***Volume I***

# Summary

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Abuse of older people is a hidden, and often ignored, problem in society. The profile of child abuse has been dramatically raised in the past few years and the Government has acted to introduce controls and measures to identify and tackle that problem; but abuse of older people remains in the background. It has been put to us that 500,000 older people in England are being abused at any one time, yet many people are unaware of the problem and few measures have been taken to address it. Moreover, we are disappointed that the Department has not commissioned research to establish a more precise figure. Abuse occurs in institutional settings, but more often in the home. It can be perpetrated by care staff, relatives, friends and strangers, and can take many forms — sexual abuse, financial abuse, abuse of medication in controlling and sedating patients, physical abuse, neglect and behaviour designed to degrade and humiliate.

Some collateral benefits of  
having such a law..

Raises awareness of an  
ever increasing problem

Such a law might just act  
as a deterrent to some  
potential perpetrators

Training will hopefully  
reduce barriers to  
successful investigation &  
prosecution

Three major barriers...

“The victim won’t be a  
good witness in the  
courtroom”

Most common answer...  
forgetfulness

Age doesn't make you  
forgetful. Having way too  
many stupid things to  
remember makes you  
forgetful!

# AVOID STEREOTYPING OF SENIORS

- Forgetful
- Senile
- Longwinded
- Grumpy
- Disabled
- Fragile



“It’s just a civil matter”  
because he gave the  
money voluntarily

But things are not always  
how they first appear



- There are times when the apparent voluntariness has been diluted by fraud, undue influence or by exploiting the mental limitations of the victim

“Victim declines  
prosecution”

# Why self-determination is a problem

- If not punished, the perp WILL abuse again
- We CAN convict even without the assistance of the victim
- Abuse is a crime against NOT JUST the abused

Such a law might also lead  
to the creation of  
mandated reporters...

Who should be in that  
category?

Not just first responders,  
medical personnel, or  
social workers...

But also every employee of  
a financial institution

Such a law would  
encourage a MDT  
approach

FAST teams

Lessons learned on my 22 year journey of  
prosecuting serious elder abuse cases

It Takes a Community:

**KEEPING  
OUR ELDERS  
SAFE**

“Alone, we can do so little;  
together we can do much.”

Helen Keller

# *Pūpūkahī i Holomua*

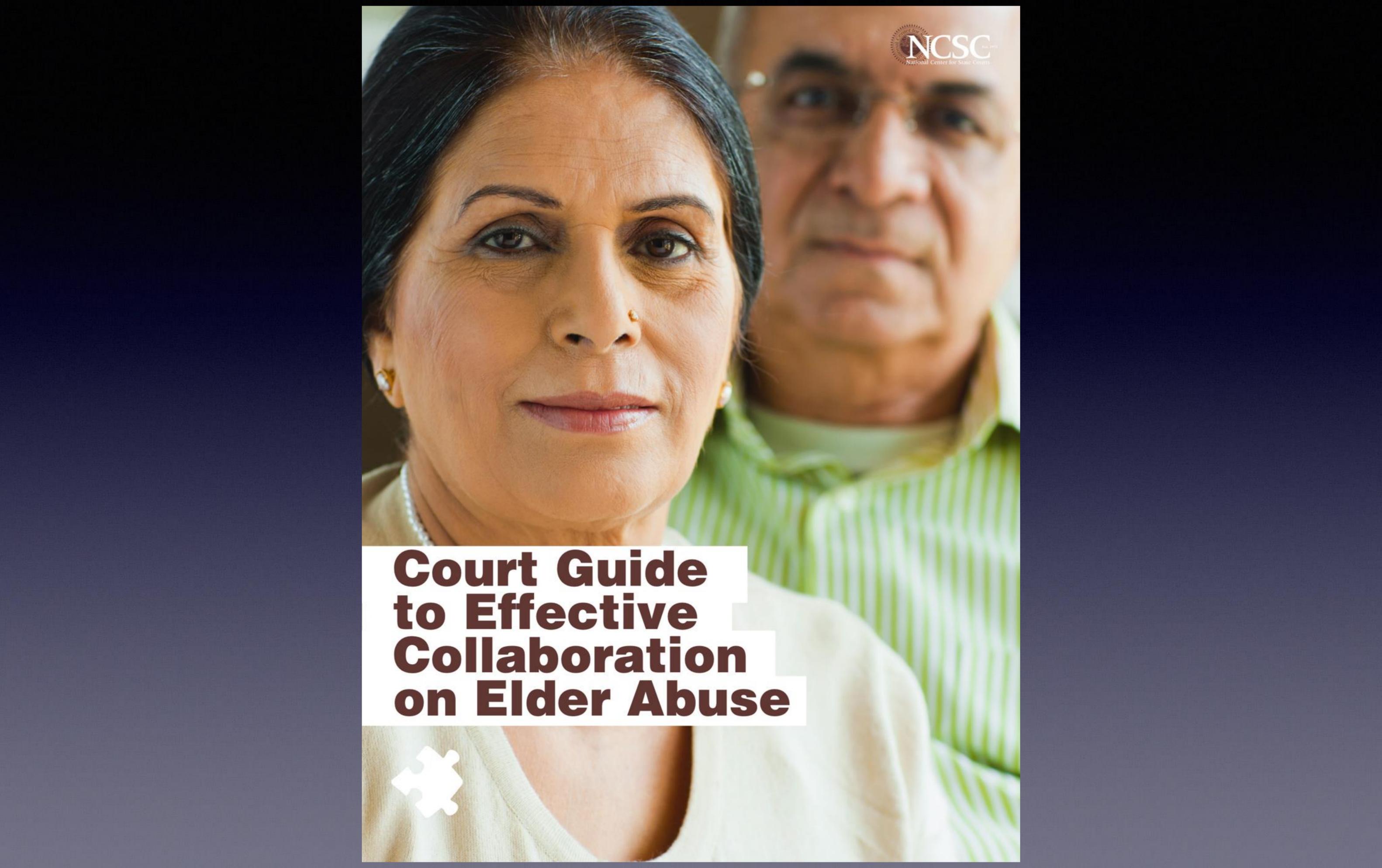
Working together to move forward



Would you be willing to  
start a MDT in your  
community & jurisdiction?

Having such a law would also force judges and the legal system to pay more attention to the needs of older victims..

Making our courts more  
elder friendly



**Court Guide  
to Effective  
Collaboration  
on Elder Abuse**



Giving priority to certain  
elder abuse trials

Making special  
accommodations for older  
victims with disabilities

In summary...



ALBERTA  
ELDER ABUSE  
AWARENESS  
NETWORK

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*Elder abuse thrives on silence. The time has come to bring this tragic secret out in the open.*



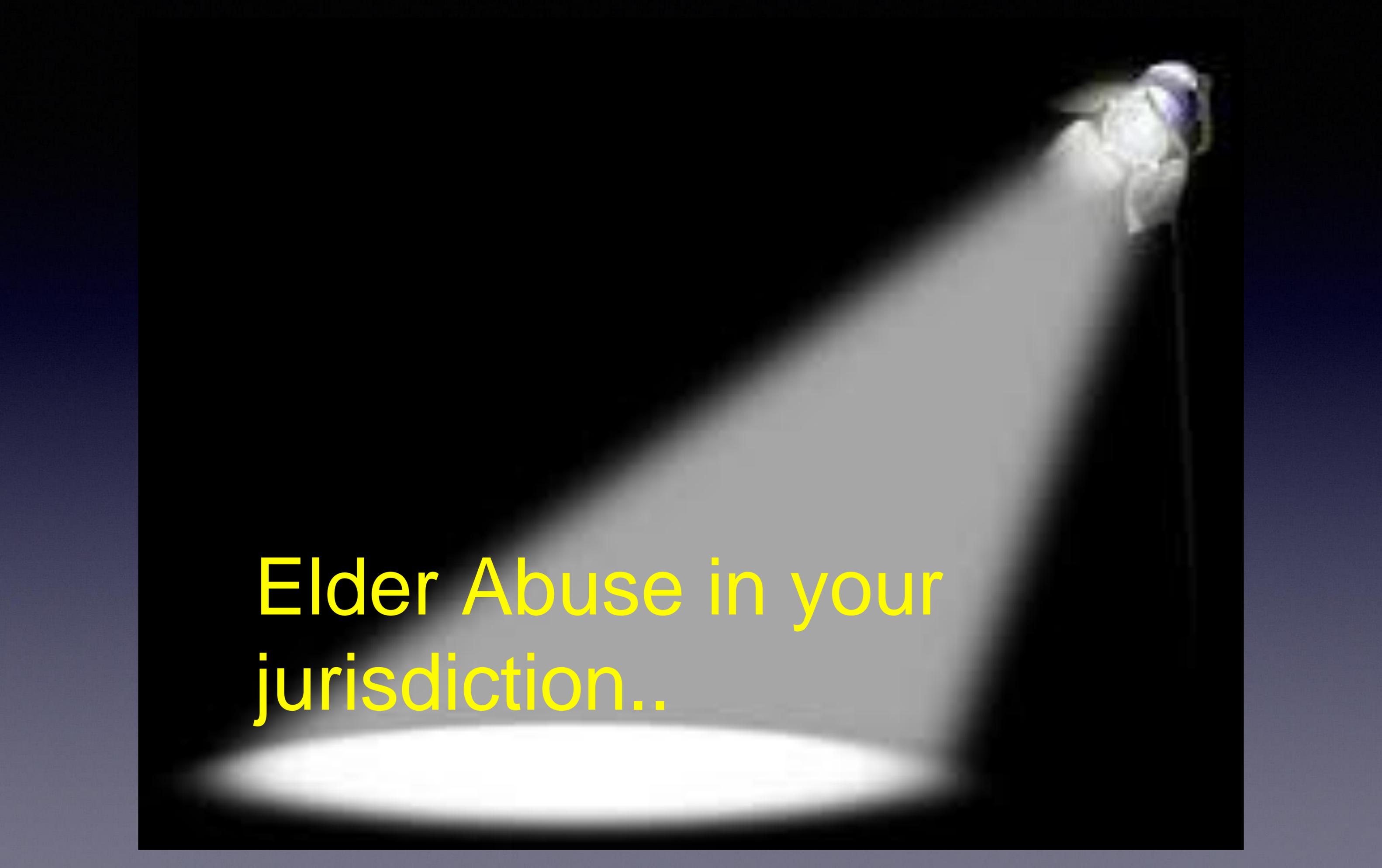
# Break the Silence

**Report Elder Abuse**

**1-800-252-8966** (Voice and TTY)

If we are serious about  
protecting the wealth of  
our vulnerable elders..

It is time for action...time  
for you to tell your  
legislators that we need  
such a law..

A spotlight beam from the top right corner of the frame illuminates a circular area on a dark stage floor. The text "Elder Abuse in your jurisdiction.." is written in yellow within this illuminated area.

Elder Abuse in your  
jurisdiction..

A spotlight beam of light originates from the top left, shining down onto the text. The beam is wider at the top and narrows as it descends, creating a soft glow around the text. The background is a dark gradient, transitioning from black at the top to a deep blue at the bottom.

Forgotten victims

no more

The image features a dark, almost black background. Two bright, white spotlights are positioned at the top left and top right, casting beams of light downwards. The beams converge towards the center, where the text is located. The text is written in a bold, yellow, sans-serif font. The overall effect is one of focus and illumination, highlighting the central message.

Reaching all victims -  
that is our goal

Please feel free to contact me:

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