

The Elder Abuse Policy Landscape in the United States

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ABSTRACT

Elder abuse has been seen as a complex problem of potentially severe consequence to its victims for more than a half century. Therefore, not surprisingly, it is believed that only a multidisciplinary response is appropriate. The background and perspective of no single discipline or system alone seems sufficient. In the decades that followed initial problem recognition, elder abuse policy evolved, taking on the philosophies and approaches of the various disciplines or systems that assumed key roles in addressing the issue, namely social work, Aging Network, family violence programming, justice, and health care and promotion. This article, along with identifying and describing representative elder abuse policies, presents each of these disciplines or systems. Later two sets of policy recommendations are cited—National Policy Summit on Elder Abuse and Elder Justice Roadmap—that have been instrumental in providing elder abuse policy direction since 2000. Finally, challenges and opportunities are listed for current and future policy efforts, followed by special notation on the necessity of securing adequate funding for effective policy implementation.

Keywords: Adult Protective Services, Older Americans Act, Elder Justice Act, Elder Justice Roadmap, National Policy Summit on Elder Abuse

El paisaje de la política de abuso de ancianos en Estados Unidos

RESUMEN

El abuso de ancianos se ha considerado un problema complejo de consecuencias potencialmente graves para sus víctimas durante más de medio siglo. Por lo tanto, no es sorprendente que se crea que solo una respuesta multidisciplinaria es apropiada. El trasfondo y

la perspectiva de ninguna disciplina o sistema por sí solos parecen suficientes. En las décadas que siguieron al reconocimiento inicial del problema, la política de abuso de personas mayores evolucionó, asumiendo las filosofías y enfoques de las diversas disciplinas o sistemas que asumieron roles clave para abordar el problema, a saber, trabajo social, Red de Envejecimiento, programación de violencia familiar, justicia y salud. atención y promoción. Este artículo, junto con la identificación y descripción de las políticas representativas de abuso de ancianos, presenta cada una de estas disciplinas o sistemas. Posteriormente, se citan dos conjuntos de recomendaciones de políticas, la Cumbre Nacional de Políticas sobre Abuso de Ancianos y la Hoja de Ruta de Justicia de Ancianos, que han sido fundamentales para proporcionar una dirección de política de abuso de ancianos desde 2000. Por último, se enumeran los desafíos y oportunidades para los esfuerzos políticos actuales y futuros, seguidos de notación sobre la necesidad de asegurar el financiamiento adecuado para la implementación efectiva de políticas.

Palabras clave: Abuso de ancianos, Servicios de protección para adultos, Justicia de ancianos

关于虐待老年人的美国政策概况

摘要

大半个世纪以来，虐待老年人一直被视为一个对受害者造成潜在严重后果的复杂问题。因此，意料之中的是，只有多学科响应措施是适宜的。不仅仅依靠单个学科或系统的背景和视角似乎是足够的。自最初发现该问题的几十年后，与虐待老人相关的政策经历了演变，吸收了不同学科或系统的理念和方法，这些学科或系统在应对该问题时发挥了关键作用，即社会工作、老龄化网络（Aging Network）、家庭暴力防治计划（family violence programming）、正义、医疗及其推广。本文在识别和描述代表性老年人虐待政策的同时，还展现了这些学科及系统。随后引用了两套政策建议—关于虐待老年人的国家政策峰会（National Policy Summit on Elder Abuse）和老年人正义蓝图（Elder Justice Roadmap）—自2000年以来，它们在提供老年人虐待政策方向上发挥了重要作用。最后，列举了当前和未来政策举措的挑战和机遇，随后特别记录了为有效政策执行而确保充足资金的必要性。

关键词：虐待老年人，成年人保护服务，老年人正义

Introduction

“Physical impairments and social losses make older people highly vulnerable to crime and abuse. While much has been written about the elderly’s susceptibility to crime, the problem of abuse by relatives and caretakers in the community has been largely neglected [It] requires enough attention to initiate large scale action in legislation and effective programming.”

—From an article presenting findings from the first elder abuse research, initiated in 1977 by Elizabeth Lau and Jordan Kosberg, Cleveland, Ohio social workers (Lau & Kosberg, 1979, pp. 11, 15).

Elder abuse is complex and assumes many forms. Although proposed definitions of it lack universal acceptance and use, there is considerable agreement that minimally the problem involves intentional harm, suffering, or loss inflicted on an older adult by a trusted other, such as a family member or paid caregiver (National Research Council, 2003; Centers for Disease Control and Prevention, 2016; World Health Organization, 2020). Likewise, its forms generally are thought to include physical, emotional, financial, and sexual abuse, as well as neglect (Hall, Karch, & Crosby, 2016; Jackson 2018). Some experts, however, suggest a broader conceptualization of elder abuse that includes self-neglect and self-abuse, perhaps along with fraud and scams by acquaintances and strangers (Anetzberger, 2012; Dong, 2014). Others identify subsets of the problem. For example, those concerned with domestic violence in later life concentrate on domestic violence and sexual assault experienced by older adults (Crockett, Brandl, & Dabby, 2015; Administration for Community Living, 2020a).

Elder abuse also is widespread and occurs across settings. A large-scale nationally representative prevalence study suggests that one in ten community-dwelling older adults experienced elder abuse the previous year (Acierno, Hernandez, Amstadter, Resnick, Steve, Muzzy, & Kilpatrick, 2010). Elder abuse occurrence was highest for financial abuse (5.2%) and neglect (5.1%) and lowest for physical abuse (1.6%) and sexual abuse (<1.0%). The perpetrators usually were intimate partners, adult offspring, or other family members. In addition, elder abuse was more likely when victims had low social support, were dependent on others, had experienced prior trauma, or had poor health status. Other studies reveal that its prevalence may be greater (though yet unknown) for certain sub-populations, such as older adults with dementia or cognitive impairment (Wigglesworth, Mosqueda, Mulnard, Liao, Gibbs, & Fitzgerald, 2010; Dong, Chen, & Simon, 2014) and those residing in long-term care facilities (Rosen, Pillemer, & Lachs, 2008; Castle & Beach, 2013). Further, sizable numbers of elder abuse victims experience poly-victimization (i.e., more

than one form simultaneously), for instance, 30-40% of those reported to adult protective services (APS) (Teaster et al., 2006; Clancy, McDaid, O'Neill, & O'Brien, 2011).

Finally, despite the serious effects it can have on victims, elder abuse is seldom reported to authorities charged to assist. New York state prevalence research found that only one in 24 elder abuse situations was reported, with rates particularly low for neglect (one in 57) and financial abuse (one in 44) (Lachs & Berman, 2011). The possible reasons for lack of reporting are many and varied. They include not knowing how to report or to whom, client confidentiality considerations, belief that the situation is a family matter, and lack of faith in those charged with abuse investigation (Schmeidel, Daly, Rosenbaum, Schmuck, & Jogerst, 2012; DeLiema, Navarro, Enguidanos, & Wilbur, 2015). Moreover, diverse populations, such as sexual and ethnic minorities, may prefer other sources of assistance, for example, friends or family members (Westwood, 2019; Li, Chen, & Dong, 2020). Lastly, research indicates the morbidity and

mortality of elder abuse. Victims experience higher rates of health problems, depression and anxiety, and risk of death than non-victims (Podneiks & Thomas, 2017; Yunus, Hairi, & Choo, 2019).

From the above description of elder abuse, it should not be surprising that policy at all government levels has been seen as essential for problem identification, prevention, and treatment. The sections which follow discuss the evolution of elder abuse public policy in the United States both historically and currently from the various lenses it has assumed. Key federal and state laws are identified, and their major provisions described under the various problem perspectives which have framed elder abuse intervention. In addition, important advocates and organizations are named for each perspective. Then efforts aimed at recommending federal policy are considered along with their successes and shortcomings. The article ends with a summary of challenges and opportunities for elder abuse policy moving forward.

Policy Evolution

“Senator Pepper and Senator Pryor, I want to personally thank you for holding this hearing concerning the pervasive problem of elder abuse. This subject has been a major concern of mine for almost 2 years and our office has done considerable research to arrive at legislative solutions to this most serious national problem The ‘Adult Abuse Prevention and Treatment Act’ which we are introducing today, will create a National Center on Adult Abuse and will provide money to States for adult abuse prevention and treatment program. In order to qualify for these funds, States must have in effect an adult abuse, neglect, and exploitation law

which provides for mandatory reporting and immunity for persons reporting

—Prepared statement of Ohio Representative Mary Rose Oakar during the first joint Congressional hearing devoted exclusively to elder abuse committed by family members (U.S. Senate Special Committee on Aging and U.S. House Select Committee on Aging, 1980, p. 12).

The development of elder abuse policy reflects changes in issue framing and discipline or system dominance over time. Collectively such policy aims to prevent elder abuse, protect the victim or at-risk older adult, and prosecute the perpetrator. It should not be surprising that many different disciplines or systems have assumed roles in elder abuse policy development. As evident in the preceding section, the problem's complexity, scope, and consequences demand a variety of professional backgrounds and skills for detection, assessment, and intervention (Anetzberger, 2005, 2011; O'Brien-Suric, Benson, Dong, & Fulmer, 2017). Indeed, the importance of a multidisciplinary approach to elder abuse was recognized from the earliest days of problem recognition and response (U.S. Department of Health, Education, and Welfare, 1961; Hall & Mathiasen, 1968). The popularity of this approach has exploded in recent times, evident in the growth of state and local elder abuse networks and multidisciplinary teams nationwide (U.S. Department of Justice, 2020). Although most professionals in the field of elder abuse applaud a multidisciplinary approach for its potential to improve communication and working relations, it has always carried the

possibility to ignite suspicion, competition, and even division within networks, teams, and even the field itself. The approach has resulted in a steady growth of elder abuse policies at all government levels, reflecting varying philosophies and objectives, and unfortunately sometimes also creating confusion and disillusionment among those trying to understand and apply them to specific abuse situations.

Policy development began more than a half century ago. At the time elder abuse was usually seen as a social problem centered on self-neglect and potential exploitation, with social workers most vocal about taking action to stop it. Mid-twentieth century America witnessed increasing numbers of older adults. They often lived alone in urban centers without nearby family for help. Some had cognitive impairment. Community leaders, particularly those from social service agencies, believed that protective care was required to ensure their safety and well-being (Cole, 1962; Ross, 1968). Ultimately this resulted in passage of state APS statutes and supportive federal policy in the form of Title XX of the Social Security Act beginning in the early 1970s.

Somewhat later elder abuse became an aging issue, with those in the

Aging Network assuming key advocacy roles. Starting in the 1970s with a focus on elder abuse in nursing homes, leaders within the Administration on Aging (AoA), state units on aging, and area agencies on aging led efforts to amend the Older Americans Act (OAA) of 1965 to become a primary vehicle for elder abuse prevention and response. This early concern about the mistreatment of nursing home residents arose from a series of exposes, which in turn led to hearings on the subject in the U.S. Senate (Mendelson, 1974; Townsend, 1970).

A third perspective originated when elder abuse first received problem recognition, during the late 1970s. However, it failed to imprint policy until the mid-1980s. Seeing the problem as an aspect of family violence, this perspective is associated with those from domestic violence and sexual assault programming. The recognition that older adults could be domestic violence victims was bolstered by large-scale research findings on their existence (e.g., Straus & Gelles, 1988; Pillemer & Finkelhor, 1988) as well as a forum on middle and later life battered women convened by AARP (AARP Women's Initiative, 1992). Related policy initiatives tended to take the form of amending established law to include older adults as a targeted population, illustrated by the Family Violence Prevention and Services Act and Violence Against Women Act.

Since the late 1980s elder abuse most often has been regarded as a crime, with the justice system in the forefront

of public policy development at both federal and state levels. The timing of this perspective coincides with the "tough on crime" political platforms of the 1980s, when criminal justice shifted away from rehabilitation toward crime control. In the aftermath, most states accelerated their use of incarceration, even for less serious offences (National Research Council, 2014). Although criminal laws long existed which could respond to some incidents of elder abuse, more recently legislatures have enacted statutes which provide criminal penalty for elder abuse infliction specifically. Lately particular attention has been given to financial exploitation, both in terms of enhanced penalty and encouragement of greater reporting of incidents. The latter focus is seen in recent passage of the federal Senior Safe Act, which allows financial institutions along with investment advisers and brokers to report financial exploitation without being sued, providing they have trained employees on appropriate detection of the problem. Most notable among federal elder abuse laws is the Elder Justice Act, which has both justice origins and notable justice provisions. It also has been heralded as the most comprehensive elder abuse policy to date.

Medical professionals and public health officials represent the latest discipline or system to assume a leadership role in elder abuse policy formation. Elder abuse has been seen as a medical syndrome since the mid-1970s (Butler, 1975) and a public health concern since the mid-1980s (U.S. Office of the Surgeon General, 1986). However, until recently those involved in health care

and promotion have focused more on practice and research than on policy with regard to elder abuse. This perspective changed during the past two decades (Irving & Hall, 2018). Largely spurred by a growing interest in prevention within the field of elder abuse, the public health framework increasingly

has been applied to elder abuse policy and program development (Nerenberg, 2008, 2019). Consequently, policy-oriented activities on elder abuse have emerged from the Centers on Disease Control and Prevention as well as other health-related sources (Teaster, Hall, & Zanghami, 2018).

Problem Perspectives Reflected in Policy

“This report is the first comprehensive analysis of the subject we have chosen to call elder abuse [It] concludes that elder abuse is an extremely serious, widespread and until now, largely hidden problem in the United States ... [and] that there is immediate need for action at both the State and Federal level to prevent the problem from occurring in the future.”

—Preface to the first Congressional report on elder abuse, written by Claude Pepper, Chair of the U.S. House Committee on Aging (1981, p. III).

Social Problem

The earliest elder abuse policy sought to establish APS as an intervention for functionally impaired adults at risk or victims of abuse, neglect, or exploitation. This approach began in the aftermath of 1950s with U.S. Department of Health, Education, and Welfare support for protective services unit demonstration projects. In 1962 Title XVI of the Social Security Act was enacted, providing matching grants for local public welfare agencies to develop and implement APS, with later amendments requiring APS inclusion in all state plans. However, few states complied (U.S. Senate Special Committee on Aging, 1977). During this decade, too, select federal agencies offered grants to create and evaluate

APS models. Recipient organizations included Cleveland’s Benjamin Rose Institute and San Diego’s Protective Services Agency (Blenkner, Bloom, Nielsen, & Weber, 1974; Horowitz & Estes, 1971). Program evaluation findings were disappointing and disturbing (e.g., “intensive service of the sort supplied in the project with a heavy reliance on custodial care may actually accelerate decline” (Blenkner et al., 1974, p. 183), but failed to stem the spread of APS nationwide.

Adult protective services expansion was stimulated by the passage in 1974 of Title XX of the Social Security Act. The law mandated programming and provided funds to address the goal of preventing or remedying child and vulnerable adult abuse, neglect, or

exploitation. Around the same time, states (beginning with Nebraska and North Carolina in 1973) proceeded to enact APS legislation, partly in anticipation of federal funding. The statutes varied in specific provisions without federal directive and only later available model legislation (U.S. Senate Special Committee on Aging, 1977). Still, there were, and continues to be, certain commonalities among state laws (Meagher, 1993). By the end of the 1980s all states had APS laws (with some states having multiple such laws), and Title XX was block granted. Block granting gave states discretion in fund allocation, but eliminated any required fund use for APS. Nonetheless, Social Services Block Grant (SSBG) goals still include prevention of neglect, abuse, and exploitation for adults (and children) unable to protect themselves. Although fewer states allocate SSBG funds for APS than under Title XX, APS still receives the largest proportion of total SSBG expenditures targeting vulnerable and older adults (Gottlich, 1994; SSBG Annual Report, 2018).

Social service leadership in early elder abuse policy also is evident in other ways. For example, completing the first studies on the problem, social workers, like Elizabeth Lau and Jordan Kosberg, then helped raise it to an issue of national concern through testimony at Congressional hearings. In addition, the American Public Welfare Association received the first grant to administer the newly formed National Center on Elder Abuse in the late 1980s, appointing Toshio Tatara as director. In that context, he helped inform pub-

lic policy through such efforts as conducting the first national elder abuse incidence study and examining cultural dimensions for understanding and responding to the problem.

Today APS is the only nationwide program dedicated solely to an elder abuse response. Its core functions involve receiving and investigating reports or referrals of abuse, neglect, or exploitation; determining client status and service need; providing or arranging and coordinating services to prevent or treat maltreatment; and seeking legal intervention, if indicated (Liu & Anetzberger, 2019). As reflected in state law, APS programs are typically state administered, usually operating within departments of social or human services or units on aging, and employing social workers more often than other professionals. All programs investigate abuse, neglect, or exploitation in community settings, and more than half investigate those in residential settings as well (Quinn & Benson, 2012). Although anyone can make a report, usually specific persons, like health care providers and law enforcement, are required to report, except in New York, which lacks mandatory reporting provisions. State APS laws vary in other ways as well. Examples include the particular allegation that triggers reporting, definitions of maltreatment forms, classification of abuse as criminal or civil, timelines for reporting as well as commencing and completing the report investigation, client eligibility requirements, and abuse remedies.

Recently the federal Administration for Community Living (ACL)

provided a national “home” for APS, in the process seeking to promote more commonality among state programs through such voluntary measures as a uniform reporting system, consensus guidelines, and innovation grants. A major source for policy information and advocacy on APS is the National APS Association, with policy leadership from William Benson.

Aging Issue

On the heels of the first White House Conference on Aging, the 1965 OAA was passed. It did so without means-tested provisions. The OAA is widely considered the premier federal policy for organizing and delivering social and nutrition services to older adults and their caregivers. It essentially creates a structure at federal, state, and local levels to plan, administer, and authorize grants for programming designed to foster the well-being and independence of older adults in their homes and communities. The OAA requires regular reauthorization and therefore provides periodic updating opportunity.

Early recognition of elder abuse as an issue of concern can be seen in OAA Title I Declaration of Objectives for Older Americans, which argues for protection against abuse, neglect, and exploitation. At various times in OAA history new provisions have stimulated significant activity toward the realization of this objective. Among the most notable amendments are the following: (1) 1978 requirement of each state to establish a long-term care ombudsman program to cover nursing homes (later

expanded to include other long-term care residences and settings, beginning in 1980 with board and care homes); (2) 1984 requirement of area agencies on aging to assess local need for elder abuse prevention services; (3) 1987 authorization of appropriations for the prevention of elder abuse, neglect, and exploitation along with provision to ombudsmen of direct and immediate access to residents for necessary protection and advocacy; and (4) 1992 creation of a new Title VII Vulnerable Elder Rights Activities, resulting in the consolidation and enhancement of programs like the long-term care ombudsman, elder abuse prevention, and legal assistance development, and elevating the role of local ombudsman programs as advocates for system change.

Other OAA titles further provide the means for addressing elder abuse. For example, Title III offers grant funding for services which could have the effect of reducing abuse risk factors, such as senior centers, congregate meals, and adult day care to curve social isolation. In addition, Title IV enables grant funding for research, demonstration, and other projects to promote better elder abuse response, among other aims. Illustration of such use is found in two of the earliest studies on elder abuse in private homes, undertaken during Fiscal Years 1978-1979 by the Universities of Michigan and Maryland (Cronin & Allen, 1982). Moreover, the first federal legislation on elder abuse (i.e., Prevention, Identification, and Treatment of Adult Abuse Act of 1981), discussed in the quotation that began this section and introduced in 1980 by Representatives

Mary Rose Oakar and Claude Pepper, included provision for what later would become the National Center on Elder Abuse (NCEA), through subsequent legislation in 1988. The NCEA received permanent home with AoA following 1992 amendments to the OAA (Teaster, Wangmo, & Anetzberger, 2010). It currently is the major national resource for information and training across elder abuse research, policy, and practice. For the last several years it has been directed by geriatrician Laura Mosqueda from the University of Southern California, in partnership with a wide range of organizations and diverse Advisory Board. In 2011 the National APS Resource Center also was created using discretionary grant funding.

In addition to OAA establishment and expansion of long-term care ombudsman programming, all states have passed laws supporting it, and some states also have enacted separate statutes aimed at resident abuse. Another important federal law with this purpose is the Omnibus Budget Reconciliation Act (OBRA) of 1987, which mandates nursing homes to preserve resident quality of life, defines resident abuse, fosters abuse prevention through health care worker education, and requires states to investigate resident abuse allegations. OBRA also mandates nursing homes to promote and protect resident rights, including the right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and physical or chemical restraint used for discipline or convenience. Finally, it requires that residents have direct and immediate access to an om-

budsman when protection and advocacy services are needed.

Interest in and activity directed at elder abuse within the Aging Network accelerated during the Obama Administration due to the seven-year leadership of Kathy Greenlee as Assistant Secretary of Aging and ACL Administrator. Among her accomplishments were those connected to providing a “home” for APS, as above described. In addition, she led agency efforts to publish final federal regulations for the long-term care ombudsman program and gave frequent national voice to the realities and scope of elder abuse. Her replacement under the Trump Administration, Lance Robertson, continued the priority given to the issue, considering protecting rights and preventing abuse among the five pillars he envisioned for the Aging Network (Administration for Community Living, 2020b). A major source for policy information and advocacy on elder abuse from an Aging Network perspective is the National Association of Area Agencies on Aging.

Aspect of Family Violence

The physical abuse of older Americans may have been “discovered” and described in scholarly publications by physicians somewhat earlier. However, the issue did not emerge as a matter worthy of federal government concern until a 1978 hearing on domestic violence convened by the U.S. House Select Committee on Aging and U.S. House Science and Technology Subcommittee. After testifying on the broad topic,

Suzanne Steinmetz, a noted family violence researcher from the University of Delaware, was asked whether or not she saw the abuse of older adults as a significant problem. She responded affirmatively, gave examples, and then predicted that “the 80s will be the decade of the battered parent” (Cravedi, 1986, p. 4). She was correct. Awareness and action on elder abuse dramatically increased during the 1980s, albeit largely outside of the family violence policy arena. During that decade the policy surge focused on battered young and middle-aged women, including the enactment in 1984 of both the Victims of Crime Act and Family Violence Prevention and Services Act and, a decade later, the Violence Against Women Act. Subsequent reauthorizations of each policy expanded their scope, including consideration of the needs of older women, often through recognition of them as an underserved population.

The three policies have interlocking general purposes. The Victims of Crime Act (VOCA) was established to provide funds for assisting and compensating survivors of crime of all ages. Funds are distributed as formula grants to states and territories for victim resources. Resources can include domestic violence shelters and other services, like counseling and emergency transportation, as well as compensation to victims for crime-related losses, such as medical costs and the replacement or repair of eyeglasses. Discretionary funds are used for national scope training and assistance, such as developing training curricula and conducting training of professionals who work in victim ser-

vices or allied fields. In addition to this federal policy, all states have adopted a victim bill of rights. The Family Violence Prevention and Services Act is the only federal funding source exclusively dedicated to domestic violence shelters and programs. It provides the most federal funding for domestic violence direct service providers. Among the programs that receive support locally are those that offer legal assistance, counseling, coalition building, and violence prevention education. Like VOCA, the Family Violence Prevention and Services Act distributes funds to states and territories that then make grants available to service providers. Furthermore, it funded the first National Elder Abuse Incidence Study in 1992. Finally, the Violence Against Women Act (VAWA) represents the first federal law that acknowledged domestic violence as a crime and provided federal funds to communities in order to encourage coordinated responses to address the problem. It also provides grants to help law enforcement combat violence against women, strengthens penalties, and prohibits activities that previously had not been recognized as illegal. In so doing, VAWA attempts to give states and communities the tools (e.g., training, services) that they need to respond effectively to domestic violence, sexual assault, and stalking, including that affecting women age 50 and older. In 2013, VAWA was amended to include the Victims of Trafficking and Violence Protection Act (originally passed in 2000), which enables the provision of assistance to, among others, older adult victims of involuntary servitude or slavery.

Besides federal law, all states have domestic violence laws that may apply to certain situations of elder abuse. The intent of such law is to provide legal recourse for victims experiencing domestic violence. States vary in their statute provisions, including the breath of definition given the problem and its forms, standards associated with the perpetrator's conduct, qualifying relationship between victim and perpetrator, and code placement. In general, domestic violence law contains criminal provisions aimed at punishing perpetrators and civil provisions offering protective orders for harmed victims. The National Clearinghouse on Abuse in Later Life is a major source for policy information and advocacy on elder abuse as an aspect of family violence, founded by Bonnie Brandl.

Crime

As mentioned earlier, general state criminal codes may apply to particular elder abuse situations, including those for battery, theft, and fraud. In some states, when the victim is an older adult, the penalties are increased. Additionally, beginning in the mid-1980s some states specified elder abuse as one or more distinct crimes.

At the federal level, two statutes are noteworthy for addressing elder abuse as primarily a justice matter. They are discussed in the remaining paragraphs of this section. Beyond these are still other statutes, perhaps less directly concerned with elder abuse, but potentially important for protecting select victims and prosecuting their perpetrators.

For example, under the Civil Rights of Institutionalized Persons Act, the U.S. Department of Justice can pursue civil rights cases against public long-term care facilities when providers abuse or neglect persons in their care or fail to meet residents' constitutional rights.

The Elder Justice Act (EJA) was introduced in 2002, and then went through multiple versions and Congressional considerations. It finally was enacted as an amendment to the Patient Protection and Affordable Care Act, signed into law in 2010. The EJA brought the term "elder justice" to the policy vernacular around elder abuse. Its aim is to establish a comprehensive and coordinated federal response to elder abuse that considers social service and public health approaches along with those of civil and criminal justice. EJA's key provisions were crafted by U.S. Senate Special Committee on Aging staff Lauren Fuller and Marie-Therese Connolly. Its eventual passage was significantly aided by the Elder Justice Coalition, an advocacy group led by Robert Blancato. Among those provisions are the following: authorization of \$777 million over four years; enhancement of national elder justice coordination through establishment of an Elder Justice Coordinating Council and Advisory Board on Elder Abuse, Neglect, and Exploitation; strengthening of state APS operations through direct funding and training demonstration programs; provision of grants to forensic centers to develop elder abuse forensic markers and expertise; and requiring the U.S. Department of Health and Human Services to promulgate guidelines on hu-

man subject protection issues in elder abuse research. However, the primary emphasis of the EJA is on elder abuse in long-term care settings. Related provisions include: direct funding for long-term care ombudsman services and training as well as grants to improve facility staffing, the establishment of a National Training Institute for Surveyors, enhancing state survey agency investigation systems, supporting a study on establishing a national nurse aide registry, and funding background check programs targeting facility employees. Lastly, the EJA is regarded as the first federal law to state specifically that it is the right of older adults to be free of elder abuse.

The second federal elder justice policy of note was passed in 2017. Titled the Elder Abuse Prevention and Prosecution Act, its intent is to direct DOJ in ways that better prevent crimes against older adults, improve the treatment of elderly victims, investigate and prosecute elder abuse crimes, and enforce elder abuse laws. Toward these goals, the Act requires each federal judicial district to designate an elder justice coordinator, whose primary focus is on prosecuting elder abuse cases. It compels the implementation of comprehensive related training of Federal Bureau of Investigation agents. The Act authorizes: appointment of elder justice coordinators in DOJ and the Bureau of Consumer Protection, formation of a working group under the Attorney General's Advisory Committee to provide guidance on DOJ elder abuse policies and strategies, and grants for qualified state courts to evaluate adult

guardianship and conservatorship proceedings. Finally, it seeks to improve DOJ data collection and reporting on crimes against older adults as well as to provide training and technical assistance to state and local governments with the goal of improving their ability to investigate, prosecute, and prevent crimes against this population. The Elder Justice Initiative of DOJ is an important source of information on elder abuse as a justice issue and crime.

Health Concern

Public policy may not have been a dominant focus of health professionals interested in elder abuse until recently, but that does not mean elder abuse policy escaped their concern. A federal example is the Medicare and Medicaid Patient and Program Protection Act of 1987. The Act requires the Secretary of the U.S. Department of Health and Human Services to exclude from participation in Medicare, Medicaid, and SSBG any person or entity convicted of program-related abuse or neglect, with the exclusion mandatory and not able to be waived. Legislation passed a decade earlier established Medicaid Fraud Control Units, with state and local law enforcement authorized to investigate and prosecute cases of patient abuse in residential care facilities receiving federal health care funds. Moreover, some state licensure laws for health care providers delineate patient rights, including freedom from abuse or neglect. Beyond legislative action, the Centers for Disease Prevention and Control funded research in the 1990s that systematically assessed how elder abuse investi-

gations were influenced by the content and characteristics of state statutes. More recently, the agency has provided uniform definitions and data elements for collecting elder abuse data within a public health surveillance framework. Finally, the Centers for Medicare and

Medicaid Services incorporated a measurement of elder abuse within the Physician Quality Reporting System. The National Consumer Voice for Quality Long-Term Care is an effective policy advocate for elder abuse victims receiving long-term services in any setting.

Policy Recommendations

“Elder justice is a long unrecognized human and civil rights issue. It raises fundamental questions about how we value life and view suffering in old age. It is low-hanging policy fruit long gone unplucked where good policy is cheaper than bad And it’s an issue where real federal leadership and a modest investment of resources—by Congress, the administration, and private funders—could have a profound impact, mitigating the suffering of millions of people and saving billions of dollars. But to date, despite these great and growing moral, demographic, and economic imperatives, we have seen scarce federal leadership or investment by any entity.”

—Introduction to “High-Cost Blind Spot” by Marie-Therese Connolly, JD, Senior Scholar at the Woodrow Wilson International Center for Scholars and architect of the Elder Justice Act (Connolly, 2012, p. 8).

There is a long history of making recommendations on elder abuse policy issues and needs. Most early efforts were offered by individuals in the form of either published article or legislative testimony. John Poertner (1987, pp. 412, 416, 420) exemplifies the former in his chapter on state policy options, in which he recommends: “careful problem definition [for] sound public policy development [...] creative solutions ... that protect victims in their environment or in the least restrictive environment,” and “[use of] a narrow target population covering physical abuse and intention-

al neglect.” Rosalie Wolf’s (1989) testimony before Congress on the federal response to elder abuse illustrates the latter. In it, she makes nine recommendations, most toward enhancing existing law, such as the Family Violence Prevention and Services Act and SSBG, or providing funding for existing programs, like APS and in-home preventive services. Additionally, she proposes a national data reporting system, proclamation of an annual elder abuse prevention week, and use of the next White House Conference on Aging to mobilize a nationwide prevention program.

The National Policy Summit on Elder Abuse was held in 2001, a decade after these early proposals and a first-ever such event. It also later triggered similar local efforts in select states, such as New York and Ohio (Anetzberger, Breckman, Caccamise, Freeman, & Nerenberg, 2020). Convened by the NCEA and attended by approximately eighty experts, the Summit was charged with recommending a national policy agenda for protecting vulnerable older adults. Working groups across seven topics identified 21 consensus recommendations, which were then subjected to a process that resulted in ten priority items for the final action agenda. Identified priority items are listed in Figure 1. Assessing progress made on these recommendations since 2001 suggests that the majority have been realized, although perhaps not entirely as envisioned. More specifically, NCEA and its partners provide ongoing communications on elder abuse, the EJA was enacted, DOJ's Elder Justice Initiative alone is testament of the considerable progress made within the justice system, elder abuse education and training curricula are available from multiple sources from professional associations to universities, a national APS resource center exists, and the Elder Justice Coordinating Council fosters coordination among federal agencies with an elder abuse responsibility. Less evidence of accomplishment surrounds the expansion of age-appropriate mental health services and a National Institute on Aging commitment to elder abuse research. On the other hand, the National Institute of Justice has helped a

good deal in supporting such studies. In addition, there have been no Executive Order on policy review toward better coordination among responsible agencies and no Governmental Accountability Office study of the relationship between federal expenditures and elder abuse service needs.

Since 2001, several instances have occurred when elder abuse experts convened and developed policy recommendations. Most were small scale responses to looming policy opportunities, such as the 2015 White House Conference on Aging (Kaplan & Pillemer, 2015) and election of a new President (Mostada, Hirst, & Sabatino, 2016-17). However, the largest scale effort to date occurred in 2014, received funding from DOJ, and resulted in the Elder Justice Roadmap (EJR). An ambitious endeavor, the project solicited the perspectives of 750 stakeholders for concept mapping critical priorities in research, education, direct services, and, of course, policy; facilitated discussions with experts on related topics, like caregiving and diminished capacity; conducted leadership interviews with public officials and thought leaders on gaining traction for implementing an elder justice agenda; and compiled a project bibliography and resource listing relevant to the 122 identified priorities. Figure 1 presents the EJR first wave policy action items and policy priorities. Evaluating impact is more difficult for the EJR than for the National Policy Summit on Elder Abuse. In comparison to the Summit, the EJR's action items tend to be numerous rather than limited, sweeping instead of specified,

and aspiration more than measurable. That said, unlike the Summit the EJR concluded with formation of a Steering Committee to disseminate the project document and encourage implementation of its priorities. The Committee met for over five years, tracking deliver-

ables resulting from the EJR. For policy these include an elder justice focus at the 2015 White House Conference on Aging, a monograph on planning elder abuse multidisciplinary teams, and establishment of more than one hundred new elder abuse networks.

Policy Challenges and Opportunities

“The attempt to force the multiplicity of difficult human situations faced by older persons into an elder abuse framework is a waste of valuable time and energy that makes no sense for intervention, is not feasible politically, and could increase the risks faced by certain older persons. Instead, our attention should be directed to maintaining and expanding income protection measures, medical care provisions, and social service programs already in place at the federal and state levels.”

—A “Guest Editor’s Perspective” from James Callahan, Jr.,
Director of the Policy Center on Aging at Brandeis University,
for a special journal issue on elder abuse (Callahan, 1986, p. 3).

Despite decades of legislative action across multiple domains, elder abuse policy still lags behind other areas of family violence and many aging-related concerns, like Alzheimer’s disease and family caregiving. The most heralded deficit is funding, notably the lack of any dedicated federal revenue stream for APS and the minimal amount actually appropriated for EJA implementation, less than \$60 million since policy enactment, although \$777 million over four years was authorized. The Government Accountability Office (2011) calculated that federal agency spending on elder abuse in 2009 totaled \$11.9 million in contrast to \$649 million for violence against women programs. Little has changed in the funding contrast between elder abuse and other

aspects of family violence since publication of the report. Furthermore, certain policies routinely appear “threatened with extinction,” especially the SSBG (regularly faced with fund elimination) and the EJA (since 2014 up for reauthorization, and still waiting at the time of writing this article, more than a half decade later). Nonetheless, funding for elder abuse policy has improved somewhat over time, particularly in the following areas: DOJ initiatives, programs which fall under the domestic violence umbrella, and ACL APS/elder justice activities. Figure 2 lists various challenges to the elevation of elder abuse policy, fulfillment of related advocacy agendas, and obtainment of sufficient funding for program implementation.

The quotation beginning this section provides a stepping-off point for identifying opportunities to promote and improve elder abuse policy. In a sense, James Callahan urges advocates to move from a narrow focus on elder abuse to broader elder justice concerns in order to ensure that the needs of older adults are met and risk factors for elder abuse are diminished. This message is contained in recent communication recommendations on elder abuse from the FrameWorks Institute (2020), contracted by NCEA to improve understanding about the problem and so create a climate where it can be better addressed. The danger of reframing elder abuse in this manner lies in loss of focus on the problem altogether. After all, elder justice incorporates a wide range of individual rights, not simply freedom from elder abuse. Fortunately, opportunity for elder abuse policy enhancement exists in other ways, including those listed in Figure 3. Still, policy making is always a journey, with potential challenges and opportunities at every juncture. In the area of elder abuse, it is likely a journey without end, since eradicating the problem is more wishful thinking than probable reality. It is also a journey worth taking, if not for ethical considerations, then for the very meaning of society.

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FIGURE 1: Key Sets of Elder Abuse Policy Recommendations

National Policy Summit on Elder Abuse Final Action Agenda

- Develop and implement a sustained national strategic communications program to educate the public on elder abuse
- Enact a National Elder Abuse Act
- Improve the legal landscape for the justice system
- Fund the development and implementation of a national elder abuse education/training curriculum for use by various professionals
- Expand the availability and accessibility of age-appropriate mental health services
- Commission a Government Accounting Office study of current federal and state expenditures on elder abuse in relationship to service needs
- Increase awareness within the justice system
- Establish a research and program institute within the National Institute on Aging to improve research, data collection, and reporting elder abuse
- Create a national APS resource center
- Seek an Executive Order by the President directing federal agencies and inviting governors to review all policies to better coordinate preventions, interventions, services, and victim assistance for maltreated older adults

(National Center on Elder Abuse, 2002)

The Elder Justice Roadmap First Wave Policy Action Items and Policy Priorities

First Wave Policy Action Items

- Improve law, policies, training, oversight, and data collection related to substituted decision-making
- Build a strong movement to advance elder justice
- Develop national APS definitions and standards

Policy Priorities

- Develop national APS definitions, collaborations, training requirements, data collection mechanism, training, technical assistance, and standards as well as create a national office for APS

- Assess existing programs, laws, and trainings to ensure efficacy and inclusivity when identifying policy priorities and what programs, laws, and trainings to replicate
- Fully fund and implement elder justice provisions in existing federal laws
- Promulgate guidance to assist Institutional Review Boards, researchers, and multidisciplinary teams in navigating consent and other human-subjects protection issues in elder abuse research
- Develop infrastructure to promote consistency, coordination, efficiency, and focus on policy development, practice, research, and training at the federal, state, and local levels
- Strengthen monitoring of long-term care services and supports and examine policies to better prevent, detect, and redress abuse and neglect in home, community-based, and institutional long-term care settings
- Examine how Medicare and Medicaid policy could be modified to prevent and mitigate elder abuse
- Cultivate and fund multidisciplinary efforts in elder abuse matters
- Develop coordinated, well-funded advocacy entities and multidisciplinary networks to inform policy, increase resources, and raise awareness at national, state, and local levels
- Engage in and partner with a variety of overlapping fields whose constituencies are affected by elder abuse
- Identify and develop policy to respond to transitions that might heighten the risk of elder abuse

(Connolly, Brandl, & Breckman, 2014)

FIGURE 2: Elder Abuse Policy Challenges

- Persistent ageism, resulting in diminished interest around issues affecting older adults
- Inadequate data, particularly what might be useful for legislative advocacy
- Competing interests, including from the domestic violence programs community
- Lack of confidence in select existing interventions, such as APS
- Inadequate enforcement of existing laws, illustrated by OBRA 1987
- Few Congressional and state champions
- Insufficient stature of existing advocacy groups, especially in comparison with such other issues as child abuse, with its Children's Defense Fund
- Few Congressional hearings, needed to focus on the issue and discuss legislative provisions
- The image of elder abuse as a private matter
- Powerful lobbies in opposition, particularly those representing long-term care facilities and against consumer protections
- Lack of federal or state coordinating offices
- Scant research, especially on policy matters
- Continuing controversies around select policy provisions, including mandatory reporting and client confidentiality among involved professionals from external agencies
- Uncertainty about the effectiveness of key intervention systems for improving the safety and status of victims rather than causing them further harm
- Lack of belief in existing policy and programming options for perpetrators
- Fear of over regulation, particularly having more imposed on long-term care facilities and services
- Confusing policy definitions and provisions, such as what really constitutes elder abuse and who qualifies for intervention

FIGURE 3: Elder Abuse Policy Opportunities

- Elder abuse is a bipartisan issue that seems equally attractive to both Democrats and Republicans.
- Current concerns about financial abuse have broad appeal, particularly to baby boomers and their families, often faced with potential longevity greater than retirement assets.
- Leadership in the field of elder abuse has been dogged about applying lessons learned from analogous fields.
- Increasing numbers of state and local elder abuse networks can affect important policy change.
- The growth of interagency collaboration at all government levels around addressing elder abuse can foster more integrative policy.
- Reauthorization requirements for various federal elder abuse laws provide the ability to expand, improve, and update provisions.
- Political advocacy across generations can be tapped around a problem that has implications for more than just older adult victims.
- Current news drivers have had the effect of sparking greater political engagement and social activism, some of which can be directed toward the issue of elder abuse.
- The growth of elder abuse research and its improved methodology toward determining sound practice and policy provides essential information toward deciding where advocacy should be directed.

