

# Protecting Seniors: Tracking Elder Abuse

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# Senator Jeffrey D. Klein

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We welcome feedback on our reports. Please contact Alex Camarda, Policy Director, at 718-822-2049 to provide your thoughts on this report or discuss collaboration on implementing its initiatives.

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Dear Reader:

It has been said that a society's greatness is measured by the manner in which it treats its most vulnerable members. Perhaps our most at-risk community are seniors who need assistance to perform simple tasks that most of us take for granted every day- moving around, eating, bathing, among other critical functions. Thankfully, there are many members in our community who have devoted their lives to helping these dependent seniors- nursing home workers, home health care aides, family members and friends. These caretakers provide an invaluable service to seniors-in-need and society-at-large and one that is increasingly important as the elderly population grows.

When dependent seniors become victims of physical or psychological abuse, or are neglected or taken advantage of financially by their caretakers, more than a sacred trust is broken; an abhorrent act has occurred that violates our society's sense of decency. Yet we have been slow to give elder abuse the attention it rightfully deserves. While awareness of elder abuse has risen in recent years, there is much we can do in New York to gain a better understanding of the issue, increase prevention, and provide needed services to victims.

Currently, there are no definitive statistics on incidence or prevalence of elder abuse in New York State, and there is much discrepancy as to its definition. Agencies that provide services to elder abuse victims don't always keep data tracking seniors affected. Other governmental entities possess data on abuse and neglect but don't distinguish between the senior and adult population. Across agencies, there is a lack of collaboration to determine the exact frequency of elder abuse in New York.

In addition to improving data collection on elder abuse, education is also essential. Child and spousal abuse were not well-known issues 25 years ago, but have moved to the forefront of societal concerns and, as such, there have been great strides in their prevention. This gives me great hope that, as a state, we can be successful in diminishing elder abuse by educating medical professionals serving seniors and the population at large. I believe these measures will help our seniors live their golden years with the dignity and security they are entitled to.

Regards,

Jeffrey D. Klein  
New York State Senate

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# SECTION 1: About Elder Abuse

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# What is Elder Abuse?

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- There is no consensus on the definition of elder abuse. Not only do descriptions of abuse differ, but there is no agreement on what age people become "elderly."
- The National Center on Elder Abuse (NCEA), directed by the U.S. Administration on Aging, defines elder abuse as "a term referring to any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult." <sup>1</sup>
- The World Health Organization more clearly incorporates a trusting relationship in its definition, defining elder abuse as "a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person." <sup>2</sup>



# Types of Elder Abuse

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The National Center on Elder Abuse categorizes the following types of abuse:

- **Physical Abuse:** The use of physical force that may result in physical injury, pain or impairment. It may include but is not limited to hitting, beating, kicking, slapping, or use of an inappropriate physical restraint. Symptoms may include bruises, black eyes, open wounds, dislocations, and broken bones.<sup>3</sup>
- **Sexual Abuse:** Non-consensual sexual contact of any kind. It includes but is not limited to unwanted touching and all types of sexual assault and battery such as rape, sodomy, coerced nudity and sexually explicit photographing.<sup>4</sup>
- **Financial or Material Exploitation:** The illegal or improper use of an elder's funds, properties, or assets. Examples include forging a signature, stealing money or possessions, cashing an elderly person's check without authorization, or coercing or deceiving a senior into signing documents. Financial exploitation also involves the improper use of conservatorship, guardianship or power of attorney.<sup>5</sup>



# Types of Elder Abuse (continued)

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The National Center on Elder Abuse categorizes the following types of abuse:

- **Emotional or Psychological Abuse:** The infliction of anguish pain or distress through verbal or non-verbal acts. This may include insults, threats, intimidation, patronizing, and social isolation. Signs and symptoms may include being emotionally upset or agitated, exhibiting unusual behavior usually attributed to dementia such as rocking or biting.<sup>6</sup>
- **Neglect:** The refusal or failure on the part of the caregiver to provide adequately for the health or safety of the elderly individual. Signs and symptoms include malnutrition, untreated or poorly treated medical conditions, inadequate or hazardous living conditions.<sup>7</sup>
- **Abandonment:** Desertion of an elderly person by the caregiver or person with physical custody of the elder. This includes leaving the elderly person at a public location like a shopping facility.<sup>8</sup>
- **Self-neglect\*:** Behavior by a senior that threatens their health or safety. It includes failure to take medication, maintain personal hygiene or provide themselves with adequate food, water, or shelter. Self-neglect does not occur when the individual is mentally competent to make voluntary decisions that negatively impact their health and safety.<sup>9</sup>
- \* = Note that self-neglect falls outside the definition of elder abuse, although it is often considered elder abuse.





# Perpetrators Of Elder Abuse

- According to the New York State Office of Children and Family Services (OCFS), elder abuse most frequently occurs in the home. <sup>10</sup>
  - An evaluation of the Office's Adult Protective Services (APS) caseload in 1997 revealed that 74% of all elder abuse perpetrators were family members, namely adult children and grandchildren, and spouses. <sup>11</sup>
  - 26% of abusers were not related to the victim. <sup>12</sup>
- A National Elder Abuse Incidence study conducted by National Center on Elder Abuse in 1998 had similar findings:

Relationship of Perpetrator to Victim of Domestic Elder Abuse	
Relationship	Percentage of Substantiated Incidents
Child	47%
Spouse	19%
Grandchild	9%
Other Relative	9%
Sibling	6%
Friend/Neighbor	6%
In-home Service Provider	3%
Out-of home Service Provider	1%

Source: *The National Elder Abuse Incidence Study, The National Center on Elder Abuse, 1998.*



# Causes of/Risk Factors for Elder Abuse

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- Particular characteristics of the caregiver, the unwell elderly individual, and their relationship can increase the likelihood of abuse:
- These risk factors that elevate the likelihood that elder abuse will occur are:
  1. Drug or alcohol abuse by the caregiver. <sup>13</sup>
  2. Unemployment , financial difficulties, job stress experienced by the caregiver. <sup>14</sup>
  3. Unfamiliarity by the caregiver with how to effectively care for an elderly person, and/or the services and resources available to assist them with the task. <sup>15</sup>
  4. A history of violence in the family- if the caregiver was abused or experienced abuse they are more likely to abuse a senior they are responsible for. <sup>16</sup>
  5. Psychological or physical impairments- if either the caregiver or elderly individual is disabled or mentally impaired, care becomes more difficult, increasing the stress and elevating the likelihood that abuse will occur. <sup>17</sup>
- Beyond individual relationships, larger systemic forces may also contribute to elder abuse, including:
  1. Marginalization and devaluing of elders in society. <sup>18</sup>
  2. Unlicensed home health care aides who are often inadequately trained and earn low wages.
    - According to the Bureau of Labor Statistics, the average hourly wage for a home health aide is \$8.74, the average annual salary is \$18,180. <sup>19</sup>
    - Many home health care aides and caregivers are paid under the table, with no current system in place to track abusive and neglectful workers.



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# SECTION 2: National Data on Elder Abuse

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## Elder Abuse Data is Tracked Differently Across the Nation

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- Due to the differing definitions of elder abuse, and the age at which “elderly” is determined, data on elder abuse is not uniform across various sources that track it at either the national or state level.
- The National Center on Elder Abuse has conducted nationwide surveys, most recently in 2004, to approximate the incidence of elder abuse across the country.



## Adult Protective Services (APS) is the Primary Entity Tracking Elder Abuse in the States

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- The National Center on Elder Abuse compiled and analyzed data from the states' Adult Protective Services (APS), as well as the District of Columbia and Guam.<sup>20</sup>
- Adult Protective Services is a federally mandated program which differs from state to state in mission and in law. However, APS is most often the first responders to reports of elder abuse and it is generally charged with offering services to those in danger of or who have been mistreated or neglected.<sup>21</sup>



# NCEA Nationwide Findings on Elder Abuse from APS Reports

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- By tallying APS reports of elder abuse for the 32 states tracking it, the National Center on Elder Abuse determined there was 253,426 reports of elder abuse (defined as abuse of individuals 60 years of age and over) to APS nationwide in 2004.<sup>22</sup>
- 192,243 reports were investigated by APS offices across the country (only 29 states tallied the number of investigations).<sup>23</sup>
- 88,455, or 46.7%, of investigations of elder abuse were substantiated by state APS offices (only 24 states recorded substantiated cases).<sup>24</sup>



# APS Data Represents A Small Portion of Elder Abuse Cases

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- For every case of elder abuse (including self-neglect) reported to and substantiated by APS more than 5 more go undetected, according to a congressionally-mandated 1998 NCEA incidence study.<sup>25</sup>
- Factoring in underreporting, there were an estimated 442,445 incidents of elder abuse across the country in 2004 (88,445 substantiated cases x 5). Given that the total number of substantiated cases comes from 24 states, this is a conservative estimate with the actual number likely much higher.



# Reasons for the Underreporting of Elder Abuse

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- Elder Abuse is underreported because:
  - 1) Victims fear retaliation from the accused abuser. <sup>26</sup>
  - 2) Victims do not believe there is a safer alternative to their current living situation. <sup>27</sup>
  - 3) Victims do not know how to obtain help. <sup>28</sup>
  - 4) Victims are unable to acquire help because they are mentally challenged, physically impaired, or isolated. <sup>29</sup>
  - 5) Victims feel if they report abuse, they will no longer have a caregiver. <sup>30</sup>
  - 6) The abuser is a relative, spouse, or friend causing the victim to feel guilty or shameful. <sup>31</sup>





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# SECTION 3: New York State Data on Elder Abuse

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# Surveying NYS Government for Elder Abuse Data

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- Senator Klein's office surveyed the following government departments, divisions and offices to determine if they kept data tracking elder abuse in New York State:
  - NYS Office of Children and Family Services (Adult Protection Services (APS) unit)
  - NYS Division of Criminal Justice Services
  - NYS Office of the Attorney General
  - NYS Office for the Prevention of Domestic Violence
  - NYS Department of Health
  - NYS Office of the Aging



# NYS Government Entities Addressing Elder Abuse

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- **NYS Office of Children and Family Services (Adult Protection Services (APS) unit)**- the primary recipient of elder abuse reports and the major government entity tracking elder abuse.
- **NYS Division of Criminal Justice Services**- tracks elder abuse through Domestic Incident Reports (DIR) and crimes against the elderly through sources like standard incident reports (SIR), incident-based reporting (IBR), and uniform crime reports (UCR).
- **NYS Office of the Attorney General**- tracks patient abuse and neglect through its Medicaid Fraud Unit but does not disaggregate data for the elderly.
- **NYS Office for the Prevention of Domestic Violence**- tracks domestic violence but focus is on generational abuse rather than caregiver abuse. Willing to track domestic violence cases involving seniors but currently does not.
- **NYS Department of Health**- The Division of Home and Community Based Care is responsible for investigating complaints against and incidents occurring at home care agencies and hospices. However, it does not track which of these complaints and incidents involve the elderly.
- **NYS Office of the Aging**- Mostly offer intervention services but do track abuse in institutional settings through the Long-Term Care Ombudsman.



# APS Elder Abuse Data for New York State

- As is the case in all states, Adult Protective Services (APS) is the primary recipient of elder abuse reports in New York State:

Referrals of Elder Abuse to Adult Protective Services (APS) by Type in NY State- 2008							
	Neglect by Caregiver	Physical Abuse	Sexual Abuse	Psychological Abuse	Financial or other Exploitation	Self-Neglect	Total by Area
All Upstate Counties	1313	509	12	769	1302	8183	12088
New York City	1147	1669			1871	3271	7958
<b>Total by Type</b>	<b>2460</b>	<b>2214</b>			<b>3173</b>	<b>11454</b>	<b>19301</b>

**Notes:**

•NYC and upstate counties maintain elder abuse data in different databases. Therefore, category headings differ slightly. NYC groups physical, sexual and psychological abuse under the category "Abuse." Neglect by caregiver is categorized as "Neglect by a Third Party." "Financial or other Exploitation" is simply labeled "Exploitation." Definitions for types of abuse can be found at <http://www.ocfs.state.ny.us/main/psa/adultabuse.asp>

•Multiple referrals may be made for one individual who is reported to have been a victim of numerous forms of abuse

•Elder is defined as adults age 60 and older

•**APS does not track substantiated reports of elder abuse, sources of reports, or demographics of victims or perpetrators**



## NYPD Domestic Incident Reports (DIR) Also Provide Data on Elder Abuse

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- The New York State Committee for the Coordination of Police Services to Elderly Persons, created by Executive Law with members appointed by the NYS Division of Criminal Justice Services (DCJS), also reports data on elder abuse through Domestic Incidence Reports (DIR).<sup>32</sup>
- A domestic incident includes “any disturbance, dispute, violence, - threatened or actual- or report of an offense between individuals within a domestic relationship where police intervention occurs.” A domestic incident may be as serious as a felony or as minor as a non-crime incident like an argument.<sup>33</sup>
- According to DCJS, “A DIR is required to be filed in the reporting, recording and investigation of all alleged domestic incidents, regardless of whether an arrest is made, and regardless of whether a crime has been committed (cf. New York CPL §140.10(5) and Executive Law, §837(15)).”<sup>34</sup>
- In 2008, for the first time, the NYS Committee for the Coordination of Police Services for Elderly Persons analyzed DIR data from police departments statewide.<sup>35</sup>
- DIR may overlap with APS reports of elder abuse. DIR are not all-inclusive of crimes committed against the elderly.<sup>36</sup>



# 2008 DIR in NYS & NYC Involving Elderly Victims

2008 NYS/NYC Domestic Incident Reports (DIR) by Borough involving Elderly Victim	# of Reports
Upstate (other than NYC)	3279
Brooklyn	1142
Queens	843
Manhattan	841
Bronx	691
Staten Island	189
<b>Total</b>	<b>6985</b>

**33% of incidents resulted in felonies, misdemeanors or violations. 67% of domestic incidents did not result in charges being made.**

**Notes:**

- *Elderly are defined as 65 years of age and older in DIR*
- *Source: Annual report of the NYS Committee for the Coordination of Police Services to Elderly Persons*



# NYSOAG Data on Patient Abuse & Neglect

- Patient abuse and neglect data from the State Attorney General's office's Medicaid Fraud Unit is emblematic of agencies that keep data on abuse and neglect but don't disaggregate it for the elderly population. It is not known how complaints, referrals, and investigations below involve the elderly, although it is assumed to be the disproportionate share.

<b>New York State Medicaid Fraud Control Unit (NYMFCU)</b>	
<b>Patient Abuse or Neglect (including the misuse of patient funds)- 2008</b>	
<b>Complaints</b>	1028
<b>Referrals to other Agencies</b>	105
<b>New Investigations</b>	54
<i>Abuse &amp; Neglect- Nursing Facility</i>	5
<i>Abuse &amp; Neglect- Other Long-Term Care</i>	0
<i>Abuse &amp; Neglect- Registered/Licensed Nurse/PA/NP</i>	16
<i>Abuse &amp; Neglect- Certified Nurse Aides</i>	25
<i>Abuse &amp; Neglect- Other Practitioner</i>	3
<i>Patient Funds- Non-direct Care</i>	1
<i>Patient Funds- Registered/Licensed Nurse/PA/NP</i>	1
<i>Patient Funds- Certified Nurse Aides</i>	3
<i>Patient Funds- Other Practitioner</i>	0
<b>Closed Investigations</b>	52

Source: New York State Office of the Attorney General, New York State Medicaid Fraud Control Unit. *2008 Annual Report.*



# Conclusions from Sources of Elder Abuse Data in NY State

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- Over 19,000 reports of elder abuse were made in NYS in 2008.
- Countywide APS in NYS do not track substantiated cases. However, the median substantiation rate for APS cases nationally is 35.1%.<sup>37</sup> Applying this median substantiation rate to NYS APS reports would yield a projected elder abuse substantiation rate of 6,775.
- Factoring in the 5:1 underreporting ratio from the 1998 NCEA study results in **an estimated incidence of elder abuse in NYS of 33,875**. This projection is a conservative estimate, given that it is made based solely on APS data, and does not integrate elder abuse data tracked by other government entities since there is no mechanism to vet for duplicate reports.
- The precise incidence of elder abuse in NYS can't be determined because:
  - Government entities tracking abuse and/or neglect do not always disaggregate data for the senior population.
  - Multiple government entities address elder abuse through intervention services but not all track elder abuse incidence.
  - Government entities tracking elder abuse often do not share data with each other or create uniform metrics so data can't be aggregated or vetted for duplicates.
  - "Elder abuse" and "elderly" are not defined uniformly by the agencies addressing the issue.





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# SECTION 4: Solutions

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# Klein's Legislation to Address Elder Abuse

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- **S5376- Governmental Collaboration on Tracking Elder Abuse**
- **Passed the State Senate 56-0 in July 2009**
  - Mandates the Office of Children and Family Services (OCFS) bring together all relevant data housed in state and local agencies on abuse and neglect, including, but not limited to the Division of Criminal Justice Services, the Office of the Attorney General, the Office for the Prevention of Domestic Violence, the Department of Health, and the Office of the Aging, for the purpose of identifying the incidence of elder abuse. To that end, OCFS will, in concert with agencies tracking abuse and neglect, create reporting systems across agencies that contain uniform base metrics (including defining the minimum age for senior and types of abuse and neglect) that enable OCFS to tally data from different state agencies.
  - Mandates that county social service agencies or APS or PSA units report elder abuse incidence to the NYS OCFS, conforming to the format specified by the NYS OCFS and including, at minimum, the number of referrals, investigations, substantiated cases, and demographic information on victims and perpetrators.
  - Requires the NYS OCFS to issue a report annually to the Governor and legislature on the incidence of elder abuse in NYS and measures taken by various agencies to prevent elder abuse and on services provided to victims.



# S5376 is the First Step in Addressing Elder Abuse

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- ❑ S5376 is supported by Mayor Bloomberg and the New York State Occupational Therapists Association.
- ❑ Once the implementation of S5376 provides clarifying information regarding the nature and extent of elder abuse, Senator Klein and the Mayor's Office are committed to finding further solutions to prevent and treat elder abuse.



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# ENDNOTES

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## ENDNOTES

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