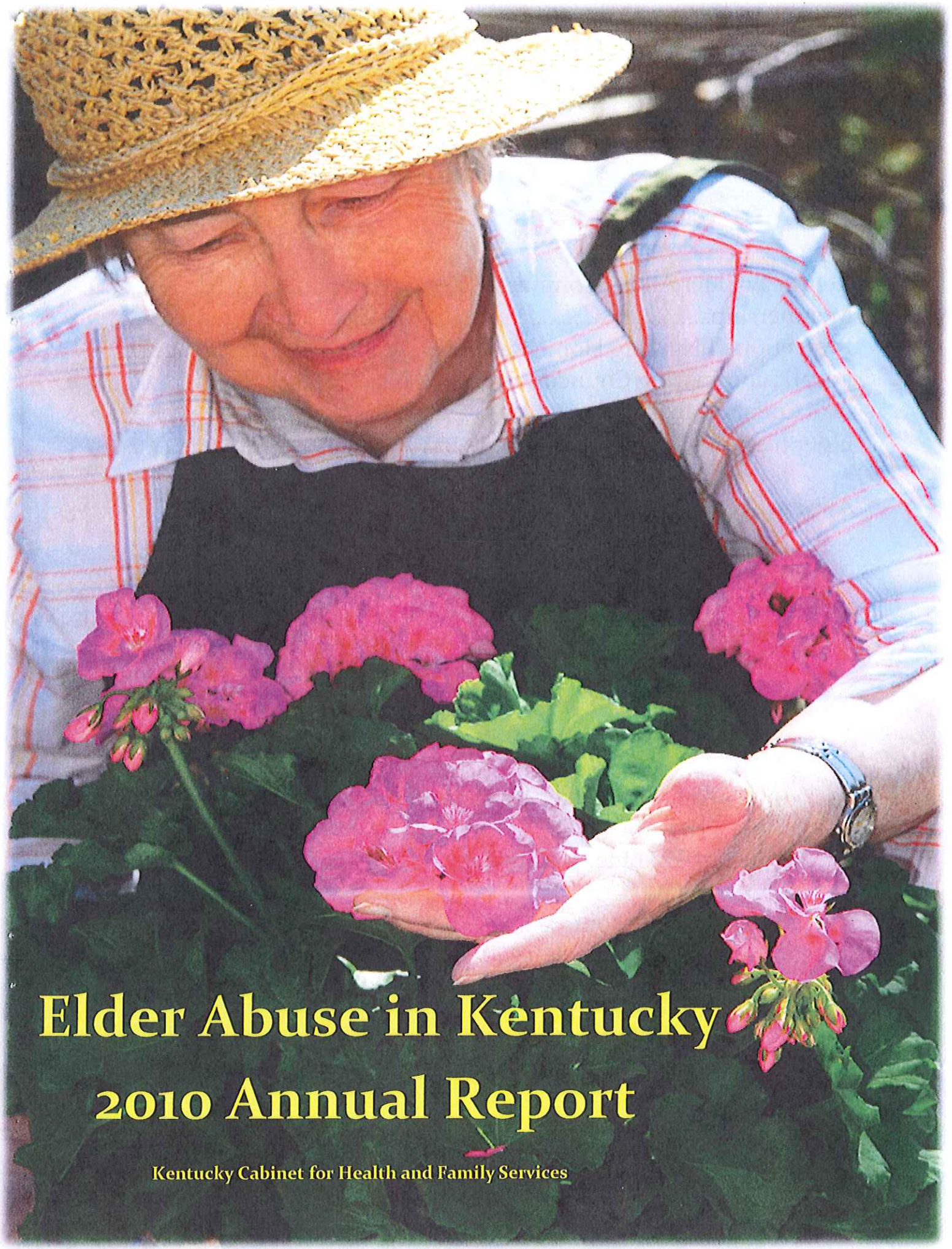

Elder Abuse in Kentucky
2010 Annual Report

Kentucky Cabinet for Health and Family Services

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Kentucky Elder Abuse Committee

In 2005, the enactment of KRS 209.005 provided the Cabinet for Health and Family Services (CHFS), law enforcement, prosecutors, advocates and the courts with the tools needed to better prevent maltreatment of elders and protect them from abuse, neglect, and exploitation. Effective implementation required the guidance and direction of a statewide Elder Abuse Committee (EAC) mandated in the statute. This committee provides technical assistance to the cabinet as it partners with the General Assembly, service providers and vulnerable elders in the Commonwealth.

As data are collected and community connections are strengthened, the committee, the cabinet, the advocacy community, and the legislature have an enhanced capacity to discern trends and anticipate future needs of the vulnerable adult population in the Commonwealth. Specifically, the trend toward increased self neglect, caretaker neglect, and financial exploitation is noteworthy and bears consideration as future public policy regarding elder maltreatment prevention and enforcement is shaped.

The number of aging citizens and their families that decide to have services provided in private homes, combined with public awareness, increased reporting and a growing elder population are all factors that impact the recent rise in self neglect and exploitation. Certainly, there are fewer protections and supports currently available to those receiving care in their private homes than are provided in long-term care settings; but one of the long-term goals of the committee is to enhance all services so elders will be able to remain safe in their homes whether in the community or in a long-term care setting.

The committee is currently serving as an advisory body related to recommendations from Governor Beshear's report entitled *Protection of Nursing Home Residents.* The membership is actively involved in a plan for improving the communication, coordination, and cooperation of all entities involved in the regulatory, investigative, and prosecutorial duties related to nursing homes and their residents. It is only through these concerted efforts that we will ensure that the elder citizens of Kentucky are able to live lives protected from abuse, neglect, and exploitation.

Membership

Ruby Jo Lubarsky
Kentucky Association of Health Care Facilities

Tim Veno
Kentucky Association of Homes and Services for the Aging

Brian L. Ritchie
Coroner, Anderson County
Secretary, Kentucky State Coroner's Association

Pamela B. Teaster, Ph.D, Director
Graduate Center for Gerontology
University of Kentucky

Walter M. Wilhoite
Chief of Police
City of Frankfort

Bernie Vonderheide
Kentuckians for Nursing Home Reform

Lois Pemble
Kentucky Initiative for Quality Nursing Home Standards

Ellen Kershaw
Vice President, Public Policy
Alzheimer's Association
Greater Kentucky and Southern Indiana Chapter

Phil Peters, State Director
AARP Kentucky

J. Michael Brown, Secretary
Justice & Public Safety Cabinet

Ricki Allen, Major
Kentucky State Police
Forensic Services Division

Patricia R. Wilson, Commissioner
Department for Community Based Services

Chip Ward, Executive Director
Office of the Ombudsman

Mary Reinle Begley, Inspector General
Cabinet for Health and Family Services

William D. Hacker, MD, FAAP, CPE, Commissioner
Department for Public Health

Stephen Hall, Ph.D, Commissioner
Department for Behavioral Health, Developmental and Intellectual Disabilities

Deborah Anderson, Commissioner
Department for Aging and Independent Living

Vicki Green
FIVCO Area Agency on Aging and Independent Living

Nancy Addington
Lincoln Trail Area Agency on Aging

Ian Sonego
Prosecutor's Advisory Council
Office of the Attorney General

Protection of Nursing Home Residents

During 2010, a series of newspaper articles addressing neglect and abuse incidents in nursing homes was published by the Lexington *Herald Leader*. These articles explored whether the current statutory, regulatory, and practice framework were adequate to protect vulnerable adults in nursing homes. As a result, Governor Beshear requested CHFS to determine if efforts to protect nursing home residents could be improved

He directed the CHFS to thoroughly review how the cabinet interfaces with other agencies and advocates to protect nursing home residents and determine if there were opportunities for improvement. The cabinet conducted an exhaustive review of its own processes as well as reviewing input from various agencies and advocates including:

- Attorney General
- U.S. Attorneys
- Kentucky Commonwealth and County Attorneys
- Kentucky Association of Chiefs of Police
- Kentucky State Police
- Nursing home resident advocacy groups
- Long-term care industry associations
- Institute for Aging
- Department of Public Advocacy
- Kentucky Coroner's Association (KCA)

As a result of this review, the following recommendations were developed and approved by the Governor to improve the detection, investigation, and prosecution of neglect and abuse of nursing home residents:

1. Improve intake and agency notifications of suspected adult abuse and neglect;
2. Establish regional specialized Adult Protective Services (APS) teams within the Department for Community Based Services (DCBS);
3. Establish joint investigative teams of DCBS and Office of Inspector General (OIG) when a report of abuse, neglect, or exploitation is received;
4. The cabinet to explore, along with the KCA, the State Medical Examiner, and local coroners, ways to improve communications, increase the sharing of information, and involve coroners more directly in investigations;
5. Increase training of long term care surveyors;
6. Explore the cost and efficiency of purchasing investigative technology;
7. Revitalize the EAC to carry out its statutory functions;
8. Explore the development of local multidisciplinary adult abuse and neglect teams;
9. Establish electronic data sharing among appropriate agencies;
10. Establish a tracking system for referral of Type A citations issued to nursing facilities;
11. Review and revise memoranda of agreement among appropriate agencies to insure coordination of information and activities by CHFS agencies which will improve the responsiveness of the cabinet;
12. Provide training for law enforcement agencies on elder abuse and neglect issues;

13. Provide training for prosecutors on elder abuse and neglect issues;
14. Assure referrals to appropriate professional licensure and certification boards;
15. Develop a Best Practices Toolkit for nursing home closures;
16. Amend licensure regulations to require in-service training on abuse and neglect for all long-term care facility staff;
17. Publish Statements of Deficiencies issued by OIG;
18. Develop training on special care necessary for residents with cognitive impairments;
19. Explore the options for and efficacy of expanding the regional ombudsman program; and
20. Explore the development of a self-protection training program for nursing facility residents.

Recommendations are currently being implemented by the cabinet, its partner agencies, and the advocacy community. The full report is available at:

http://healthalerts.ky.gov/Documents/Protection%20of%20Nursing%20Home%20Residents%20-%20Final%20Report.pdf

Local Coordinating Councils on Elder Abuse

In 2005, a Model Protocol for Local Coordinating Councils on Elder Abuse (LCCEA) was developed per KRS 209.005 and a statewide network of councils was formed. Kentucky continues to be the only state to have this network of councils. Currently 29 LCCEAs are operative and cover 110 counties. While these councils are independent and are not administered through the court or by the cabinet, DCBS has for several years acted as a resource by facilitating communication, providing public awareness materials, awarding funds, and through participating on the councils. The councils are comprised of professionals from a variety of disciplines as well as members of the public. Their membership and activities are reflective of the communities they serve and their primary focuses are prevention, intervention, and resource development aimed at ending abuse.

In an effort to strengthen and expand communication, the councils participate on quarterly conference calls. The calls are structured to provide the councils an opportunity to network and share ideas on a statewide level, as well as providing an opportunity to discuss service gaps and problems they may be experiencing and offer ideas for possible solutions. In 2010, three conference calls were held. During the calls, the councils shared fundraising ideas and potential public awareness activities and held discussions concerning upcoming conferences, trainings, and grant opportunities. Council members suggested the use of multidisciplinary teams as a way to engage all authorized agencies and follow outcomes of cases. The multidisciplinary approach allows for community specific responses to be developed and fosters an infrastructure, builds capacity, and strengthens local community partner relationships. Currently, three of the 29 councils have formed case review teams that serve as a forum to engage authorized agencies and interested parties in a review of APS cases for the purpose of identifying the best possible outcomes for the vulnerable adult population.

In an effort to recognize the councils for their hard work in promoting elder abuse awareness and prevention, CHFS held an inaugural LCCEA recognition luncheon on June 4, 2010 at Kentucky State University. During the luncheon the Kentucky River, Big Sandy, and Madison County Councils were recognized and each received a Public Awareness Initiative Award. This award is a monetary award given to councils who have promoted awareness throughout the year in their communities.

To foster additional support to the LCCEAs, Dr. Pamela Teaster with the University of Kentucky, Graduate Center for Gerontology was awarded a $10,000 grant funded through June 30, 2011 to work with Kentucky's EAC as well as the LCCEAs to develop and strengthen their efforts to address elder abuse. The goal of the project is to assist in developing a clear vision on local and state levels concerning a council's purpose, goals, and strategies to address elder abuse. The project will also enable the creation of uniform intervention and prevention outcomes and evidence-based measures for the LCCEAs.

Adult Protective Services

With the enactment of KRS Chapter 209 in 1978, Kentucky began a comprehensive, statewide effort to protect vulnerable adults from abuse, neglect, and exploitation. Although led by the Department for Community Based Services, interventions to protect these individuals are collaborative and involve both public and private agencies.

While the true magnitude and scope of elder maltreatment may not be known, the number of adult protective service reports investigated by DCBS is one measure of the magnitude of the issue. In state fiscal year 2010, DCBS investigated 7,365 reports of suspected maltreatment of individuals' age 60-plus. Of those, more than 1,800 were substantiated, with self-neglect being the most prevalent form of maltreatment identified, followed by neglect by caretaker (Appendix A provides detailed data; Appendix B, Figure 1, outlines the process of Adult Protective Services (APS) investigations).

APS Collaborative Efforts

As directed in KRS 209.010 the DCBS actively partners with a number of agencies and entities that have a responsibility to respond to the abuse, neglect, or exploitation of adults.

- Monthly meetings with the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) – In a longstanding practice, DCBS and DBHDID meet monthly in an effort to improve coordination between the agencies. The discussion ranges from specific cases that overlap both systems to macro-level issues that require attention. These meetings have proven to be of value in improving outcomes for both the APS and Child Protective Services populations.

- Healthcare Advisory Committee (HCAC) –This committee serves an advisory function for end-of-life issues that Guardianship staff face on a daily basis. The HCAC was the mechanism by which the cabinet "Do Not Resuscitate (DNR)" protocol for state wards was developed. From its inception, the HCAC has provided leadership related to the DNR process and end-of-life quandaries that involve state wards when dealing with physicians, hospitals, long-term care facilities and other providers. It includes, but is not limited to tube feedings, palliative care, surgical intervention, ongoing medical care with a DNR in place, withdrawal of life support, rescinding of DNRs, and prevention of medical neglect. The HCAC is designed to include physicians, DCBS nurses, CHFS legal counsel, DCBS Protection and Permanency staff, Hospice agency personnel, Protection and Advocacy Division (Department of Public Advocacy, Justice Cabinet), and the Department of Aging and Independent Living Division of Guardianship staff. It is a critical outlet to review these challenging topics through case review, workable interventional strategies, and drafting of applicable documents that are user friendly to the provider community and cabinet staff. The HCAC serves as the conduit for insuring that state guardianship wards receive the best care as it relates to end-of-life decisions.

- The DCBS Nurse Consultant/Inspector (NCI) continues to work in a supportive role by providing recommendations to Guardianship staff on medically-related issues such as:
  - Assisting the Guardianship staff with navigating the medical process including issues/questions related to diagnosis, treatments, medications, surgical procedures, informed consent, translating medical terminology and standards of care.
  - Reviewing Standards of Practice (SOP) 5C.7.8 titled, "Life Saving Measures" also known as Do Not Resuscitate. NCI reviews submitted information to determine if criteria are met. It may be necessary for the NCI to request additional information/documentation to support criteria.
  - Assisting Guardianship staff with implementing SOP 5C.7.9 titled, "End of Life Decisions" (Termination of Life Support) by providing, as a courtesy, the translation of medical terminology in the three (3) physician letters.
  - Participating in team conferences with Guardianship staff regarding medical.

Elder Justice Act

In 2010, Congress passed and President Obama signed into law the Elder Justice Act and the Patient Safety and Abuse Prevention Act. This landmark legislation was sponsored in the Senate by Senator Blanche Lincoln (D-AR) and Senator Orrin Hatch (R-UT) and in the House by Rep. Peter King (R-NY), Rep. Jan Schakowsky (D-IL), and Rep. Tammy Baldwin (D-WI). Advocates have worked tirelessly for the past seven years to ensure additional protections for elders, and the legislation as enacted includes the following highlights:

- Authorizes $777 million over 4 years for the Elder Justice Act;
- Establishes an Elder Justice Coordinating Council to make recommendations to the Secretary of the U.S. Department of Health and Human Services on the coordination of activities of federal, state, local, and private agencies, and entities relating to elder abuse, neglect, and exploitation. Recommendations contained in report are due in 2 years;
- Establishes a 27-member Advisory Board on Elder Abuse, Neglect and Exploitation. The board is to submit a report within 18 months to create a short- and long-term multidisciplinary strategic plan for the developing field of elder justice;
- Provides $400 million ($100 million per year) in first-time dedicated funding for adult protective services. Provides $100 million ($25 million annually) for state demonstration grants to test a variety of methods to improve APS;
- Provides $26 million for establishment and support of Elder Abuse, Neglect and Exploitation Forensic Centers to develop forensic expertise regarding and providing services relating to, elder abuse, neglect, and exploitation;
- Provides $32.5 million (over 4 years) in grants to support the Long-Term Care Ombudsman Program and an additional $40 million ($10 million annually) in training programs for national organizations and State long-term care ombudsman programs;
- Authorizes $67.5 million (over 4 years) in grants to enhance long-term care staffing through training and recruitment and incentives for individuals seeking or maintaining employment in long-term care, either in a facility or a community-based long-term care entity;
- Authorizes $48 million ($12 million annually) for a National Training Institute for Surveyors;
- Requires the immediate reporting to law enforcement of crimes in a long-term care facility and establishes civil monetary penalties for failure to report;
- Provides for penalties for long-term care facilities that retaliate against an employee for filing a complaint against or reporting a long-term care facility that violates reporting requirements;
- Authorizes a $500,000 study on establishing a national nurse aide registry;
- Authorizes $15 million (over 4 years) for HHS to improve data collection and dissemination, develop and disseminate information related to best practices related to adult protective services, and to conduct research related to APS;
- Authorizes the Secretary to make grants to long-term care facilities for the purpose of assisting such entities in offsetting the costs related to purchasing, leasing, developing, and implementing technology solutions; and
- Creates a national program of criminal background checks for nursing home employees within the larger scope of the health care reform bill.

Appendix A
Data

60-Plus Population
Statewide Data for SFY 2006 - SFY 2010 *

Total Adult Protective Services for 60-Plus Population

	SFY06	SFY07	SFY08	SFY09	SFY10
Total # of Reports	9386	9660	11506	12472	13491
Total # of Investigations	6548	6442	7783	9872	7365
Total # of Investigations Substantiated	1844	1762	2152	1973	1859
Total # of Information and Referral Services	2002	2416	2824	3601	4620
Total # of General Adult Services	2200	1761	1984	2136	1713
Total # Long-Term Care Facility Investigations					1073
Total # LTC Facility Investigations Substantiated					164

Total # of Allegations by Type within an Investigation for 60-Plus Population

	SFY06	SFY07	SFY08	SFY09	SFY10
Adult Abuse	1093	1042	1262	1193	1127
Spouse Abuse	368	373	402	422	466
Partner Abuse	69	79	104	82	105
Neglect by Caretaker	2161	2093	2640	2610	2496
Self-Neglect	1831	1843	2304	2371	2429
Exploitation	1026	1012	1071	1076	742

Total # of Investigations Substantiated by Type for 60-Plus Population

	SFY06	SFY07	SFY08	SFY09	SFY10
Adult Abuse	273	242	303	210	251
Spouse Abuse	85	84	70	91	93
Partner Abuse	15	14	28	24	23
Neglect by Caretaker	331	347	375	368	461
Self-Neglect	631	619	856	724	792
Exploitation	250	236	260	266	249

	SFY06	SFY07	SFY08	SFY09	SFY10
Number of Criminal Charges Filed Related to KRS Chapter 209 (60-Plus Population)	320	366	371	307	316

*Kentucky State Fiscal Year: July 1st – June 30th

18 to 59 Population
Statewide Data for SFY 2006 - SFY 2010 *

Total Adult Protective Services for 18 to 59 Population

	SFY06	SFY07	SFY08	SFY09	SFY10
Total # of Reports	36806	35388	43195	46365	44438
Total # of Investigations	22344	21480	23464	25377	23836
Total # of Investigations Substantiated	5860	5576	5794	5055	5070
Total # of Information and Referral Services	13256	12428	17689	20988	19748
Total # of General Adult Services	1541	1480	1586	1630	1268
Total # Long-Term Care Facility Investigations					975
Total # LTC Facility Investigations Substantiated					204

Total # of Allegations by Type within an Investigation for 18 to 59 Population

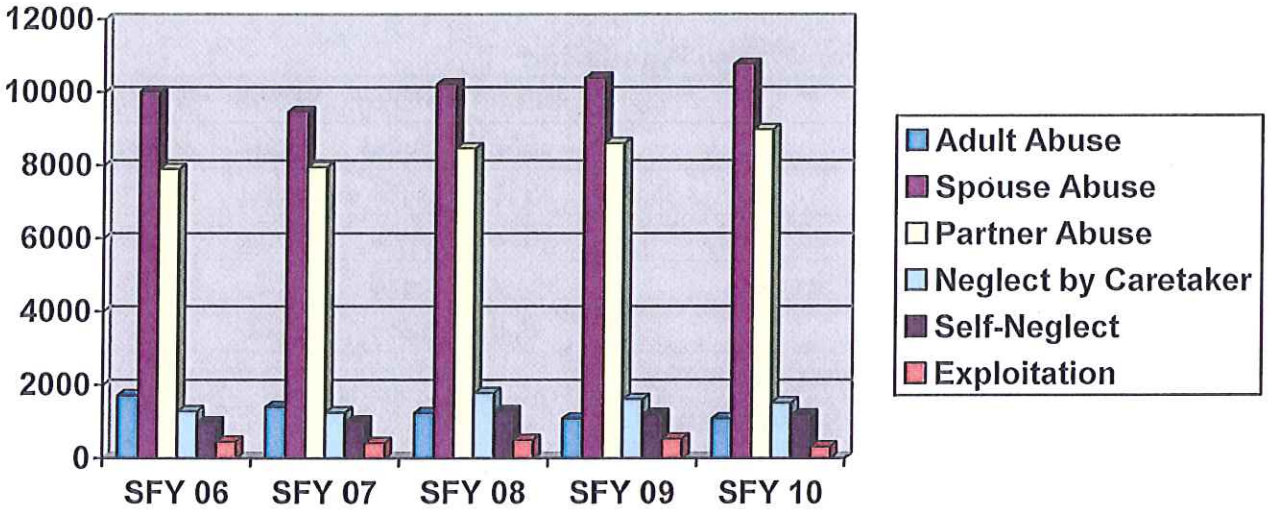
	SFY06	SFY07	SFY08	SFY09	SFY10
Adult Abuse	1713	1394	1227	1080	1081
Spouse Abuse	10012	9463	10221	10391	10767
Partner Abuse	7901	7954	8466	8610	8979
Neglect by Caretaker	1285	1251	1776	1610	1513
Self-Neglect	977	1003	1280	1207	1184
Exploitation	456	415	494	532	312

Total # of Investigations Substantiated by Type for 18-59 Population

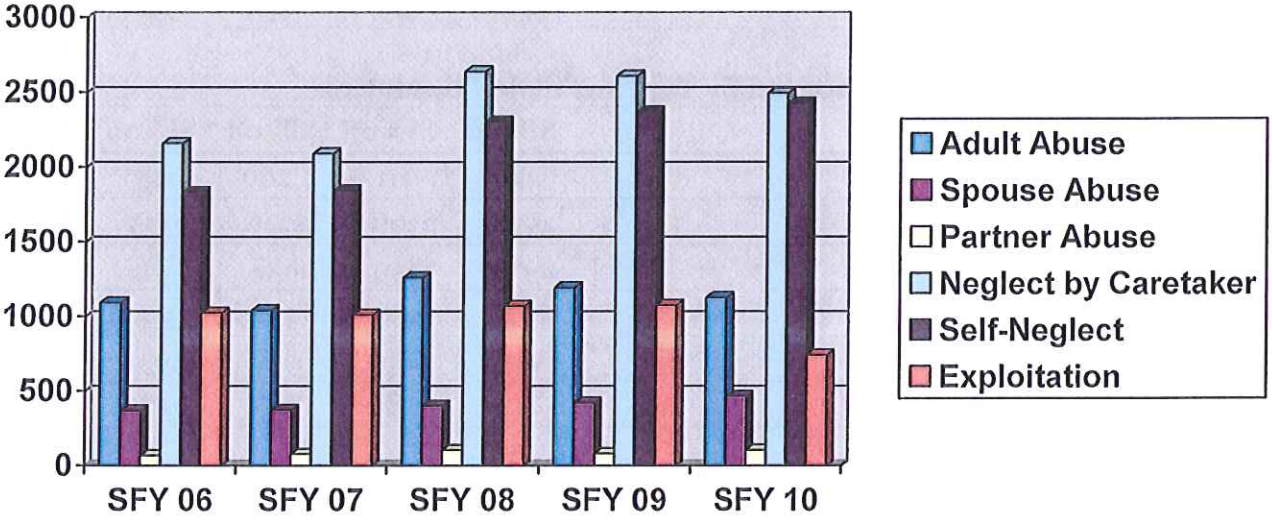
	SFY06	SFY07	SFY08	SFY09	SFY10
Adult Abuse	222	211	260	195	246
Spouse Abuse	2576	2360	2226	1905	2131
Partner Abuse	1805	1839	1844	1676	1796
Neglect by Caretaker	288	271	334	314	319
Self-Neglect	427	445	578	493	471
Exploitation	97	89	100	137	107

*Kentucky State Fiscal Year: July 1st – June 30th

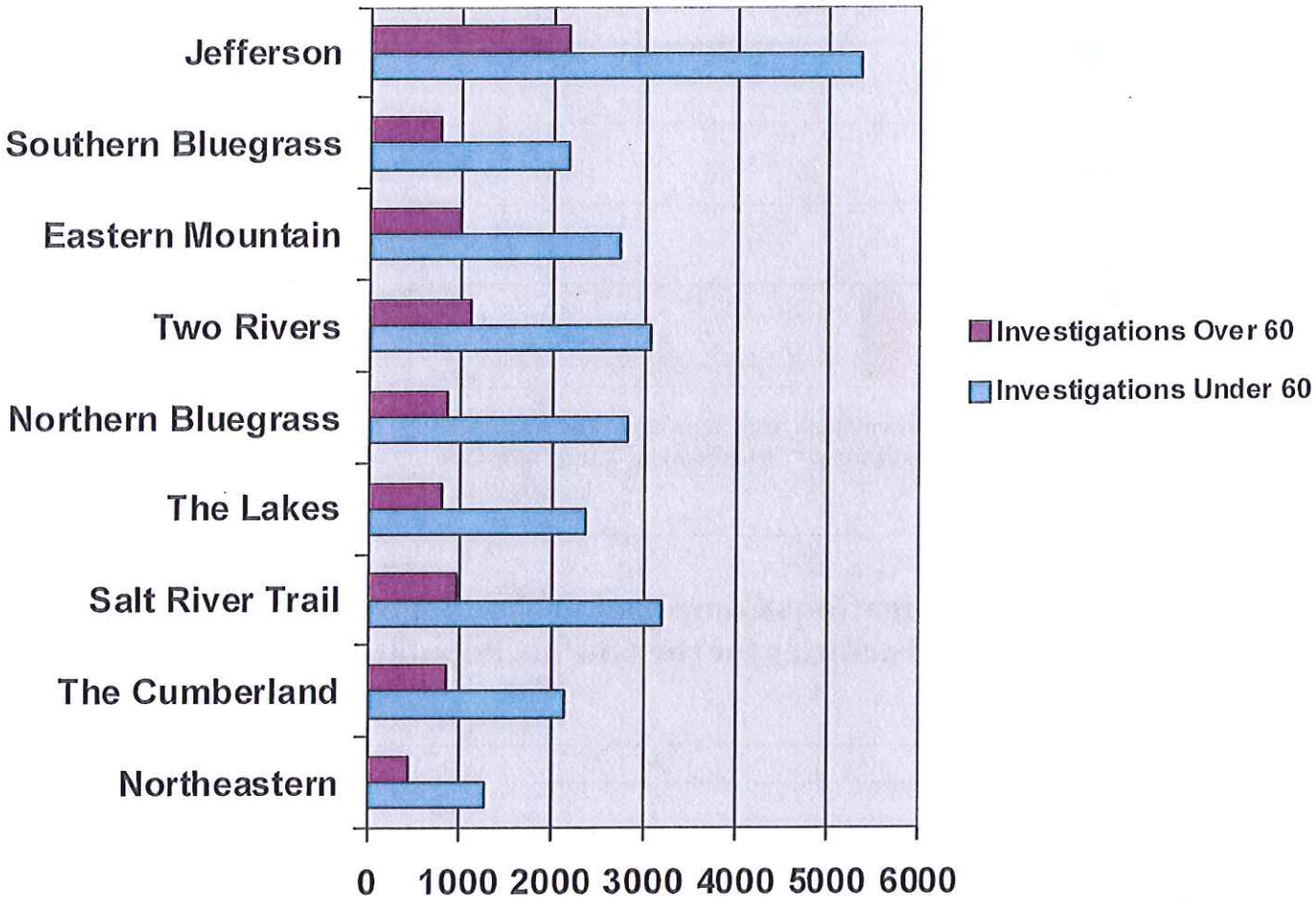
Investigation Trends for Under 60 Population From SFY 2006 to SFY 2010



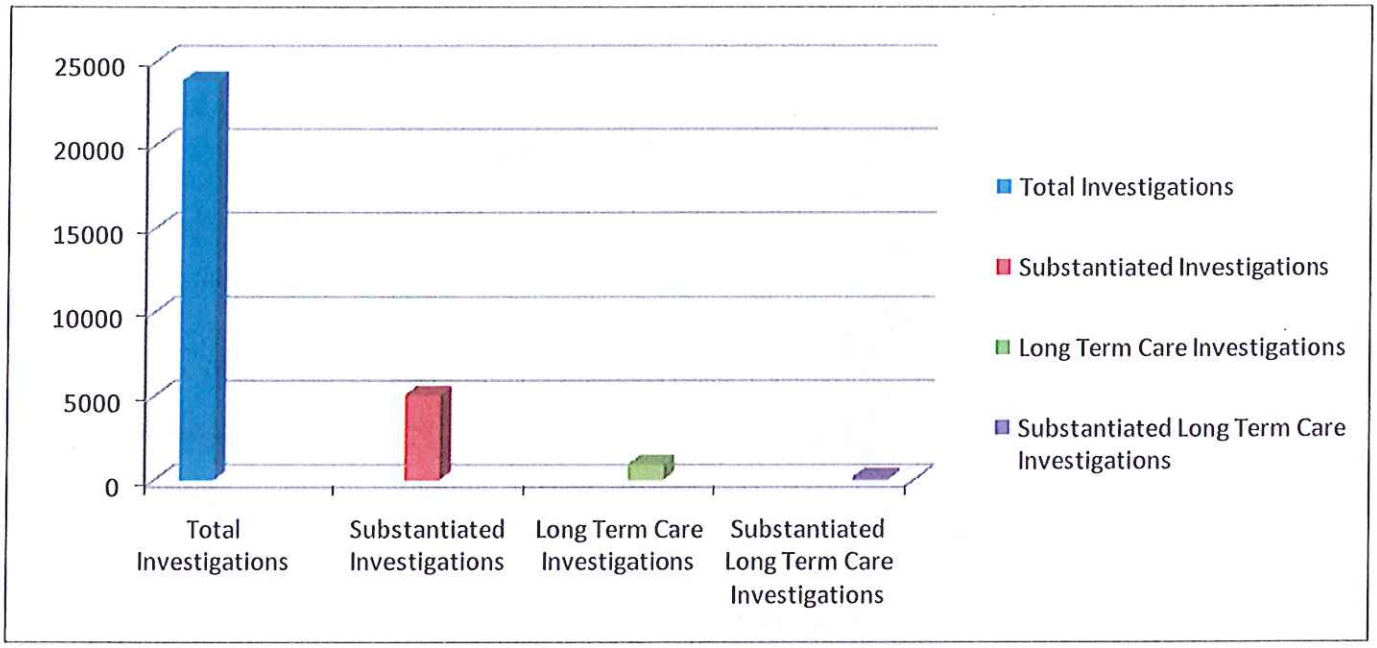
Investigation Trends for Over 60 Population From SFY 2006 to SFY 2010



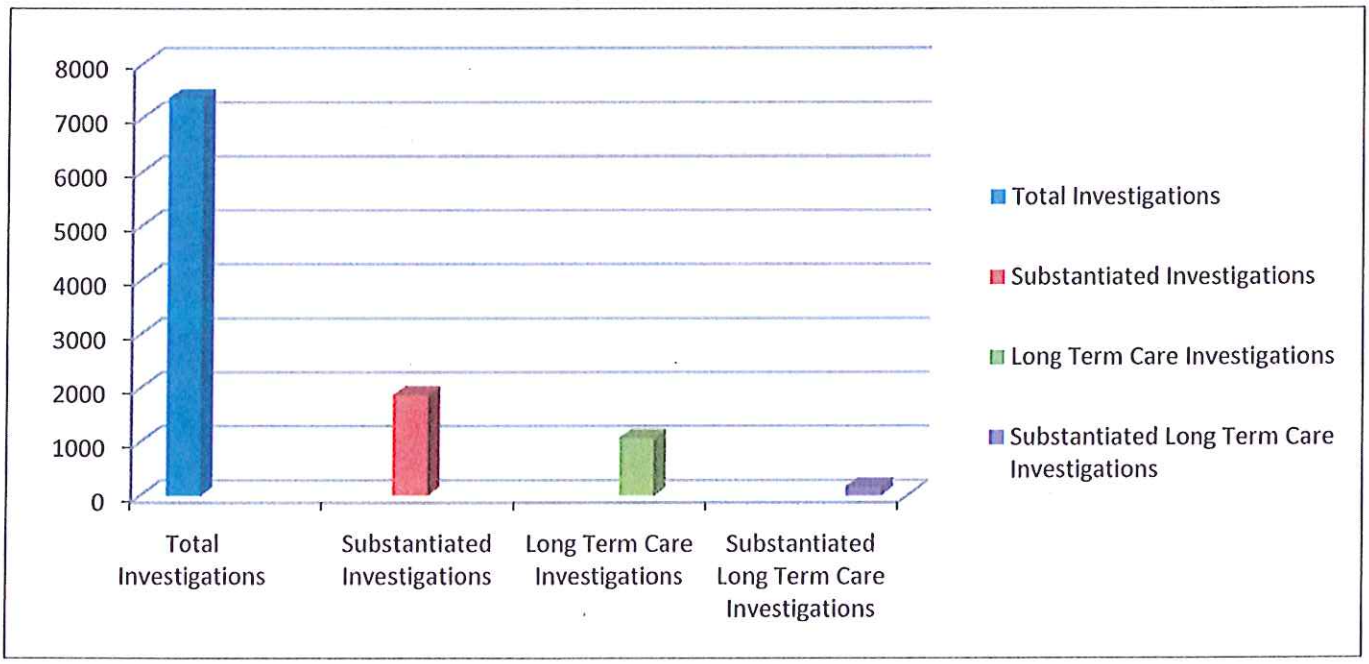
Total Number of Substantiated APS Reports by Region for SFY 2010



Total Number of Investigations Compared to Number of Investigations in Long-Term Care Facilities for the 18 to 59 Population SFY 2010



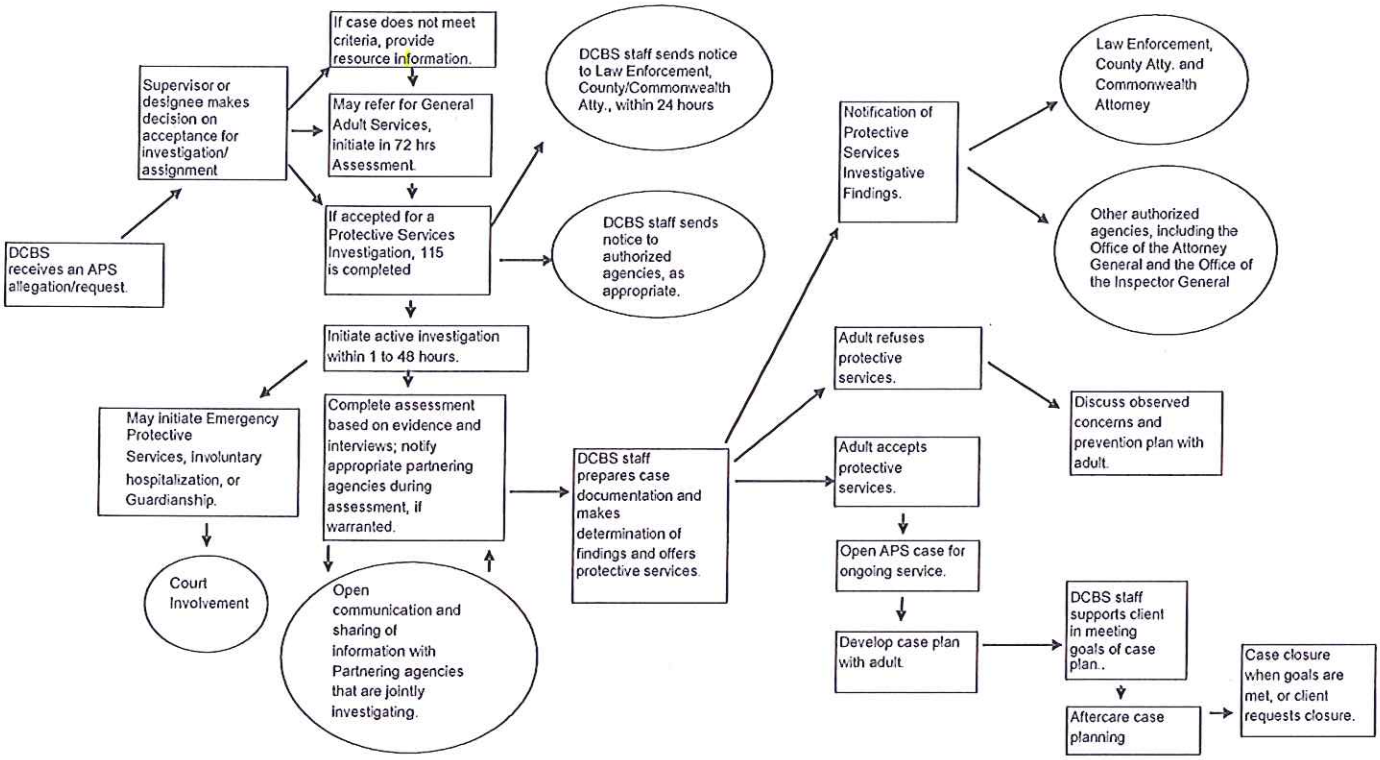
Total Number of Investigations Compared to Number of Investigations in Long-Term Care Facilities for the 60-Plus Population SFY 2010



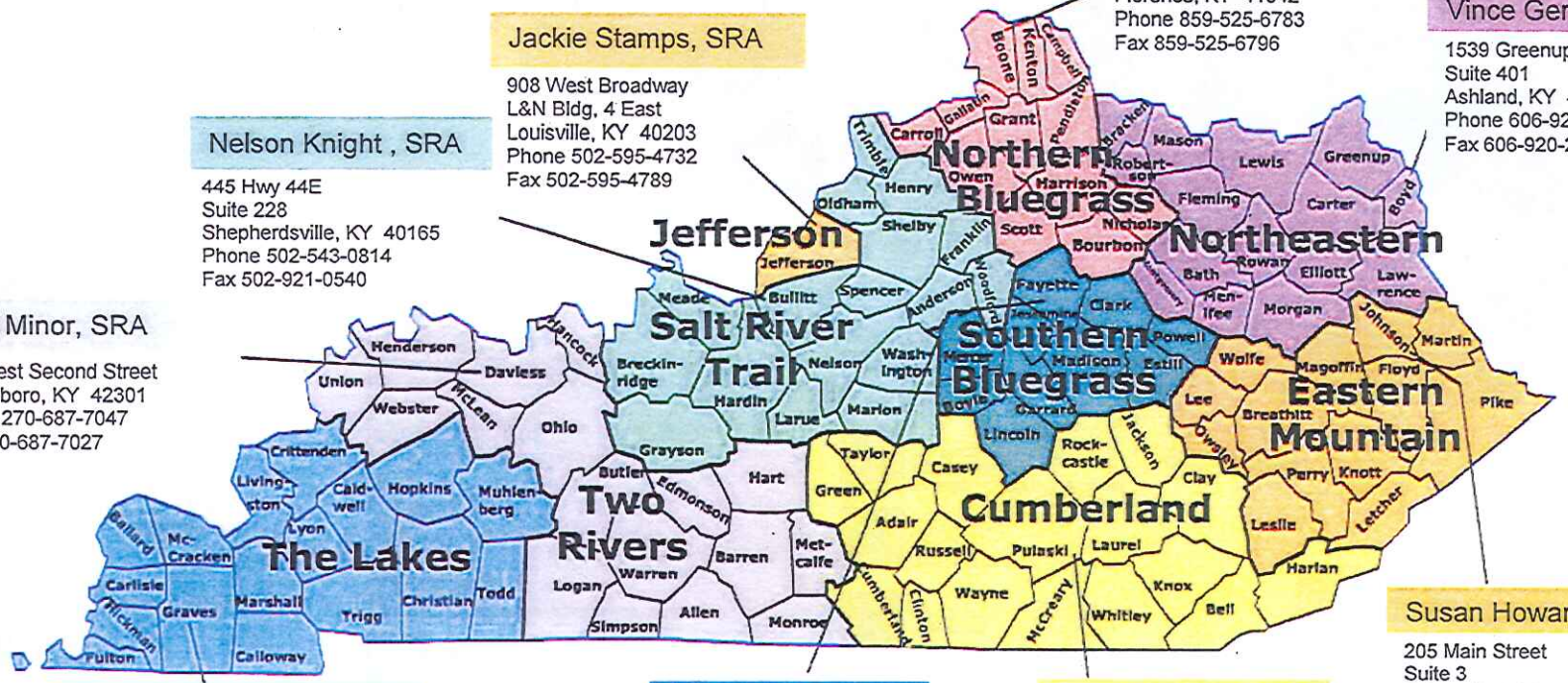
Appendix B
Figures

DCBS Adult Protective Services Process Map

The DCBS is statutorily charged (KRS 209.010) with the provision of protective services for vulnerable adults. This process is accomplished through a multidisciplinary approach outlined in the following diagram.



DCBS Service Regions



Lisa Prewitt, SRA
8311 US 42
Victory Center
Florence, KY 41042
Phone 859-525-6783
Fax 859-525-6796

Vince Geremia, SRA
1539 Greenup Avenue
Suite 401
Ashland, KY 41101
Phone 606-920-2007
Fax 606-920-2045

Jackie Stamps, SRA
908 West Broadway
L&N Bldg, 4 East
Louisville, KY 40203
Phone 502-595-4732
Fax 502-595-4789

Nelson Knight , SRA
445 Hwy 44E
Suite 228
Shepherdsville, KY 40165
Phone 502-543-0814
Fax 502-921-0540

Joey Minor, SRA
311 West Second Street
Owensboro, KY 42301
Phone 270-687-7047
Fax 270-687-7027

Susan Howard, SRA
205 Main Street
Suite 3
Paintsville, KY 41240
Phone 606-788-7108
Fax 606-788-7117

Renee Buckingham, SRA
333 Charles Drive
Mayfield, KY 42066
Phone 270-247-5126
Fax 270-247-3541

Grace Akers, SRA
2050 Creative Drive
Suite 160
Lexington, KY 40505
Phone 859-246-2298
Fax 859-246-2515

Sandy Rollins, SRA
67 Eagle Creek Drive
Suite 101
Somerset, KY 42503
Phone 606-677-4178
Fax 606-677-4206

2010 Local Coordinating Councils on Elder Abuse

1 Barren River Elder Abuse Council
Daniel Curry
1-800-782-1924

2 Big Sandy Elder Abuse Council
Steve Jones
606-886-2374

3 Buffalo Trace Elder Abuse Council
Lt. Justin Horch
606-564-9411

4 Casey County Elder Abuse Council
Norma McQueary
606-787-8066

5 Central Kentucky Elder Abuse Council
(Boyle, Garrard, Lincoln, Mercer, Anderson)
Jackie Sims
859-236-2070

6 Estill and Powell LCC
Mary Crawley-Schmidt
859-269-8021

7 Cumberland/Clinton Elder Abuse Council
Cindy Branscum
270-866-4200

8 Daviess County
Debra Jacob
270-687-7491

9 Fayette and Jessamine County Elder Abuse Council
Amanda Sokan
859-269-8021

10 Fivco Elder Abuse Council
Shauna Carver
606-836-3187

11 Gateway Elder Abuse Council
Regina Back
606-780-0090

12 Green/Taylor Elder Abuse Council
Chief John Brady
270-932-4202

13 Jackson and Clay County Elder Abuse Council
Melissa Davidson
606-598-2027

14 Kentucky River Council against Maltreatment of Elders
Stacie Noble
606-436-3158

15 KIPDA Rural Elder Abuse Council
Ben Kennedy
502-647-9245

16 Lake Cumberland Elder Abuse Council
Patricia Harper
270-384-6411

17 Lincoln Trail Elder Abuse Council
Normalene Skees
270-734-3895

18 Louisville Metro Elder Abuse Council
Honorable Jennifer Leibson
502-574-7390

19 Madison County Council on Elder Maltreatment Prevention
Paula Strunk
859-228-0551

20 McCreary County Elder Abuse Council
Sheila Heflin
606-376-5400

21 Northern Kentucky
Elder Maltreatment Alliance
Pam Pangburn 859-491-0522

22 Pennyrile Elder Abuse Council (Hopkins, Muhlenburg, Trigg, Christian, Todd, Livingston, Crittenden, Lyon and Caldwell counties)
Randa Ramsey
270-886-9484

23 Pulaski County Elder Abuse Council
Virginia Dick 606-305-1137
Mary Oakley 866-910-9734

24 Purchase Elder Abuse Council
Susan Hall
270-653-4314

25 Russell County Elder Abuse Council
Christy Cundiff
270-866-2899

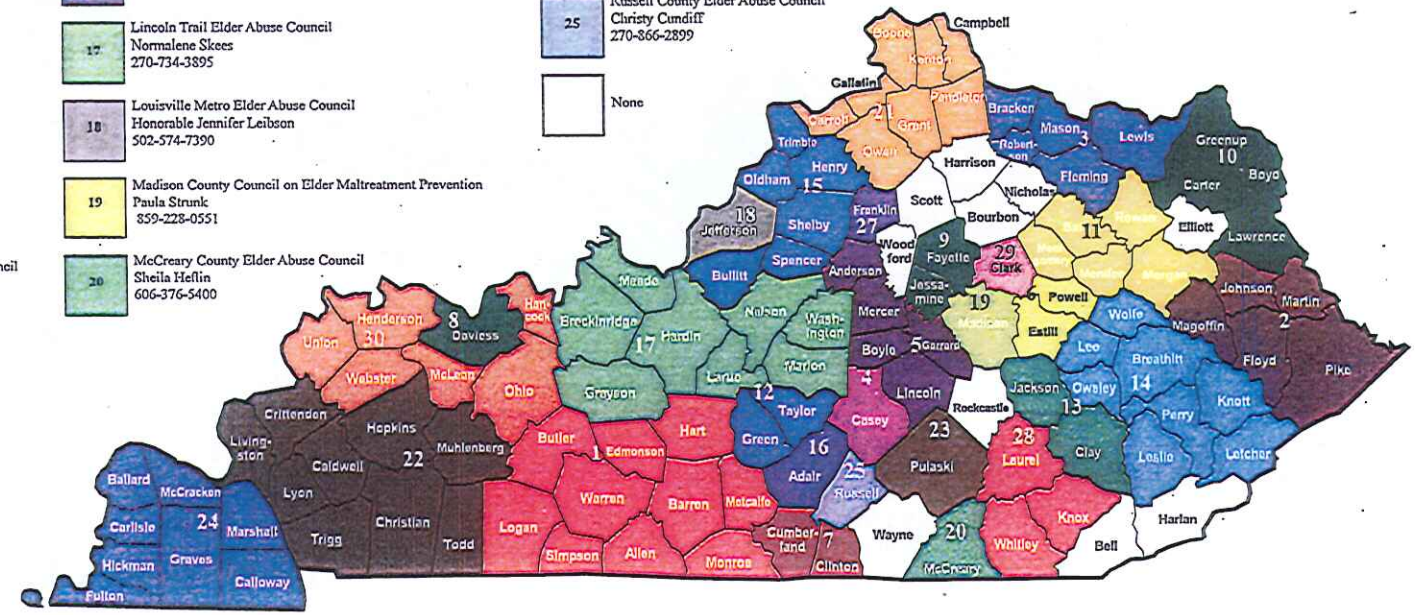
None

26 Tri County Council on Elder Abuse
Debbie Bowker
606-528-8788

27 Franklin County Council on Family Abuse
Kay Triplett
502-223-5794

28 Green River Triad Elder Abuse Coalition
Vivian Craig and Brenda Kennedy
270-926-4433

29 Clark County Elder Abuse Council
Sabrina Puckett
859-271-3765



Appendix C
KRS Chapter 209 and 922 KAR 5:070

KRS Chapter 209
Kentucky Adult Protection Act

209.005 Elder Abuse Committee -- Membership -- Duties -- Annual report.

(1) The Cabinet for Health and Family Services shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various agency representatives that include, but are not limited to:
   (a) The Department for Community Based Services;
   (b) The Department for Public Health;
   (c) The Department for Mental Health and Mental Retardation;
   (d) The Division of Aging Services;
   (e) The Division of Health Care Facilities and Services;
   (f) The Office of the Ombudsman;
   (g) Area Agencies on Aging;
   (h) Local and state law enforcement official; and
   (i) Prosecutors.

(2) The committee shall address issues of prevention, intervention, investigation, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:
   (a) Senior citizen centers;
   (b) Local governmental human service groups;
   (c) The Sanders-Brown Center on Aging at the University of Kentucky;
   (d) Long Term Care Ombudsmen; and
   (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.

(3) The committee shall:
   (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, or exploitation of the elderly;
   (b) Recommend practices to assure timely reporting of referrals of abuse, neglect, or exploitation required under KRS 209.030(12);
   (c) Explore the need for a comprehensive statewide resource directory of services for the elderly;
   (d) Enhance existing public awareness campaigns for elder abuse and neglect; and
   (e) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

209.010 Purpose and application of chapter.

(1) The purpose of this chapter is:
   (a) To provide for the protection of adults who may be suffering from abuse, neglect, or exploitation, and to bring said cases under the purview of the Circuit or District Court;
   (b) To provide that any person who becomes aware of such cases shall report them to a representative of the cabinet, thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation; and
   (c) To promote coordination and efficiency among agencies and entities that have a responsibility to respond to the abuse, neglect, or exploitation of adults.

(2) This chapter shall apply to the protection of adults who are the victims of abuse, neglect, or exploitation inflicted by a person or caretaker. It shall not apply to victims of domestic violence unless the victim is also an adult as defined in KRS 209.020(4).

209.020 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(2) "Cabinet" means the Cabinet for Health and Family Services;

(3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;

(4) "Adult" means a person eighteen (18) years of age or older who, because of mental or physical dysfunctioning, is unable to manage his own resources, carry out the activity of daily living, or protect himself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has been entrusted with or who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily or by contract, employment, legal duty, or agreement;

(7) "Deception" means, but is not limited to:

(a) Creating or reinforcing a false impression, including a false impression as to law, value, intention, or other state of mind;

(b) Preventing another from acquiring information that would affect his or her judgment of a transaction; or

(c) Failing to correct a false impression that the deceiver previously created or reinforced, or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(8) "Abuse" means the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury;

(9) "Exploitation" means obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources;

(10) "Investigation" shall include, but is not limited to:

(a) A personal interview with the individual reported to be abused, neglected, or exploited. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(b) An assessment of individual and environmental risk and safety factors;

(c) Identification of the perpetrator, if possible; and

(d) Identification by the Office of Inspector General of instances of failure by an administrator or management personnel of a regulated or licensed facility to adopt or enforce appropriate policies and procedures, if that failure contributed to or caused an adult under the facility's care to be abused, neglected, or exploited;

(11) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(12) "Emergency protective services" are protective services furnished an adult in an emergency;

(13) "Protective placement" means the transfer of an adult from his present living arrangement to another;

(14) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

(15) "Records" means the medical, mental, health, and financial records of the adult that are in the possession of any hospital, firm, corporation, or other facility, if necessary to complete the investigation mandated in this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained;

(16) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult; and

(17) "Authorized agency" means:
(a) The Cabinet for Health and Family Services;
(b) A law enforcement agency or the Kentucky State Police;
(c) The office of a Commonwealth's attorney or county attorney; or
(d) The appropriate division of the Office of the Attorney General.

209.030 Administrative regulations -- Reports of adult abuse, neglect, or exploitation -- Cabinet actions -- Status and disposition reports.

(1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.

(2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse, neglect, or exploitation of an adult.

(4) Any person making such a report shall provide the following information, if known:
(a) The name and address of the adult, or of any other person responsible for his care;
(b) The age of the adult;
(c) The nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation;
(d) The identity of the perpetrator, if known;
(e) The identity of the complainant, if possible; and
(f) Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(5) Upon receipt of the report, the cabinet shall conduct an initial assessment and take the following action:
(a) Notify within twenty-four (24) hours of the receipt of the report the appropriate law enforcement agency. If information is gained through assessment or investigation relating to emergency circumstances or a potential crime, the cabinet shall immediately notify and document notification to the appropriate law enforcement agency;
(b) Notify each appropriate authorized agency. The cabinet shall develop standardized procedures for notifying each appropriate authorized agency when an investigation begins and when conditions justify notification during the pendency of an investigation;
(c) Initiate an investigation of the complaint; and
(d) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(6) (a) The cabinet shall, to the extent practicable, coordinate its investigation with the appropriate law enforcement agency and, if indicated, any appropriate authorized agency or agencies.
(b) The cabinet shall, to the extent practicable, support specialized multidisciplinary teams to investigate reports made under this chapter. This team may include law enforcement officers, social workers, Commonwealth's attorneys and county attorneys, representatives from other authorized agencies, medical professionals, and other related professionals with investigative responsibilities, as necessary.

(7) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to financial records and the mental and physical health records of the adult which are in the possession of any hospital, firm, financial institution, corporation, or other facility if necessary to complete the investigation mandated by this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained.

(8) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not

consent to the investigation, a search warrant may be issued upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(10) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

(11) The cabinet shall consult with local agencies and advocacy groups, including but not limited to long-term care ombudsmen, law enforcement agencies, bankers, attorneys, providers of nonemergency transportation services, and charitable and faith-based organizations, to encourage the sharing of information, provision of training, and promotion of awareness of adult abuse, neglect, and exploitation, crimes against the elderly, and adult protective services.

(12) (a) By November 1 of each year and in accordance with state and federal confidentiality and open records laws, each authorized agency that receives a report of adult abuse, neglect, or exploitation shall submit a written report to the cabinet that provides the current status or disposition of each case referred to that agency by the cabinet under this chapter during the preceding year. The Elder Abuse Committee established in KRS 209.005 may recommend practices and procedures in its model protocol for reporting to the cabinet under this section.

(b) By December 30 of each year, the cabinet shall provide a written report to the Governor and the Legislative Research Commission that summarizes the status of and actions taken on all reports received from authorized agencies and specific departments within the cabinet under this subsection. The cabinet shall identify any report required under paragraph (a) of this subsection that is not received by the cabinet. Identifying information about individuals who are the subject of a report of suspected adult abuse, neglect, or exploitation shall not be included in the report under this paragraph. The report shall also include recommendations, as appropriate, to improve the coordination of investigations and the provision of protective services. The cabinet shall make the report available to community human services organizations and others upon request.

209.035 Cabinet's authority to promulgate administrative regulations on general adult services.
The cabinet shall promulgate administrative regulations for the provision of general adult services to include uniform criteria for adult intake and appropriate and necessary service provision.

209.040 Remedies -- Injunctive relief.
Any court may upon proper application by the cabinet issue a restraining order or other injunctive relief to prohibit any violation of this chapter, regardless of the existence of any other remedy at law.

209.050 Immunity from civil or criminal liability.
Anyone acting upon reasonable cause in the making of any report or investigation or participating in the filing of a petition to obtain injunctive relief or emergency protective services for an adult pursuant to this chapter, including representatives of the cabinet in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant either to the consent of the adult or to court order.

209.060 Privileged relationships not ground for excluding evidence.
Neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of an adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

209.080 Title.
This chapter may be cited as the Kentucky Adult Protection Act.

209.090 Legislative intent.

The General Assembly of the Commonwealth of Kentucky recognizes that some adults of the Commonwealth are unable to manage their own affairs or to protect themselves from abuse, neglect, or exploitation. Often such persons cannot find others able or willing to render assistance. The General Assembly intends, through this chapter, to establish a system of protective services designed to fill this need and to assure their availability to all adults. It is also the intent of the General Assembly to authorize only the least possible restriction on the exercise of personal and civil rights consistent with the person's needs for services, and to require that due process be followed in imposing such restrictions.

209.100 Emergency protective services.

(1) If an adult lacks the capacity to consent to receive protective services in an emergency, these services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:
   (a) The adult is in a state of abuse or neglect and an emergency exists;
   (b) The adult is in need of protective services;
   (c) The adult lacks the capacity to consent and refuses to consent to such services; and
   (d) No person authorized by law or court order to give consent for the adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention which it finds to be the least restrictive of the individual's liberty and rights while consistent with his welfare and safety.

209.110 Petition -- Guardian ad litem -- Summons -- Notice -- Hearing -- Report to court -- Fee.

(1) A petition by the cabinet for emergency protective services shall be verified by an authorized representative of the cabinet and shall set forth the name, age, and address of the adult in need of protective services; the nature of the disability of the adult, if determinable; the proposed protective services; the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of----- , an adult in need of protective services." The petition shall be filed in the court of the adult's residence, or if filed pursuant to KRS 209.130, the court of the county in which the adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the adult. The duties of a guardian ad litem representing an adult for whom a petition for emergency protective services has been filed shall include personally interviewing the adult, counseling with the adult with respect to this chapter, informing him of his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the adult and his guardian or, if none, his caretaker. Should the adult have no guardian or caretaker, service shall be made upon the adult's guardian ad litem. Notice of the hearing shall be given to the adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be impractical. Service shall not be made upon any person who is believed to have perpetrated the abuse, neglect, or exploitation. Service of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:
   (a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;
   (b) The adult or his representative may present evidence and cross-examine witnesses; and
   (c) The adult or his representative may petition the court to have any order which is entered pursuant to this chapter, set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the cabinet shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the cabinet not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

209.120 Findings by court -- Limitations of court's power -- Termination of order.

(1) Upon petition by the cabinet a court may issue an order authorizing the provision of emergency protective services to an adult after a hearing and upon a finding based on a preponderance of the evidence that:
   (a) The adult is in a state of abuse, neglect, or exploitation and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;
   (b) The adult is in need of protective services;
   (c) The adult lacks the capacity to consent to such services; and
   (d) No person authorized by law or court order to give consent for the adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order the court shall adhere to the following limitations:
   (a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.
   (b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order.
   (c) The issuance of an emergency order shall not deprive the adult of any rights except to the extent validly provided for in the order.
   (d) To implement an order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the cabinet.

(3) If the court finds, pursuant to a hearing, that the adult is in need of protective services, and should that adult have a guardian who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the adult, the court shall order the emergency protective services to terminate.

209.130 Ex parte order of court -- Implementation.

(1) When from an affidavit or sworn testimony of an authorized representative of the cabinet, it appears probable that an adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the adult. The court shall not authorize such protective services except those specifically designed to remove the adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the adult and his guardian, or if none, his caretaker. Service shall not be made upon the person or caretaker who is believed to have perpetrated the abuse, neglect, or exploitation.

(2) To implement an ex parte order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the cabinet.

(3) Upon the issuance of an ex parte order, the cabinet must file a petition as soon as possible. A hearing must be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

209.140 Confidentiality of information.

All information obtained by the department staff or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(1) Persons suspected of abuse or neglect or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;
(2) Persons within the department or cabinet with a legitimate interest or responsibility related to the case;
(3) Other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case;
(4) Cases where a court orders release of such information; and
(5) The alleged abused or neglected or exploited person.

209.150 Who may make criminal complaint.
Any representative of the cabinet acting officially in that capacity, any person with personal knowledge of the abuse or neglect, or exploitation of an adult by a caretaker, or an adult who has been abused or neglected or exploited shall have standing to make a criminal complaint.

209.160 Spouse abuse shelter fund -- Department of Revenue to administer -- Cabinet for Health and Family Services to use -- Primary service providers.
(1) There is hereby created a trust and agency account in the State Treasury to be known as the domestic violence shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Department of Revenue. The Cabinet for Health and Family Services shall use the funds for the purpose of providing protective shelter services for domestic violence victims.
(2) The Cabinet for Health and Family Services shall designate one (1) nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located.

209.170 Staffing requirements.
The Cabinet for Health and Family Services shall provide for sufficient social worker staff to implement the provisions of this chapter. This staff shall obtain the training provided under KRS 194A.545.

209.180 Prosecution of adult abuse, neglect, and exploitation.
(1) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have an attorney trained in adult abuse, neglect, and exploitation.
(2) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing the adult alleged to have been abused, neglected, or exploited, and shall inform the adult about the proceedings throughout the case.
(3) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement that allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the adult victim.
(4) Commonwealth's attorneys, county attorneys, cabinet representatives, and other members of multidisciplinary teams shall minimize the involvement of the adult in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.
(5) Commonwealth's attorneys, county attorneys, and victim advocates employed by Commonwealth's attorneys or county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the adult when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the adult victim.

209.190 Prosecutor's manual.
The Attorney General, in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in crimes against the elderly, shall develop a prosecutor's manual for Commonwealth's attorneys and county attorneys establishing the policies and procedures for the prosecution of crimes against the elderly. The manual shall be completed no later than January 1, 2006, and shall be revised by July 31 of every even-numbered year after 2007. The Attorney General shall distribute a copy of the manual to every Commonwealth's attorney and county attorney.

209.195 Electronic development of and access to educational and training courses and materials.
Educational and training courses and materials required under KRS 15.760, 21A.170, 69.350, 194A.540. and 194A.545 may be developed and accessed by computer, Internet, or other electronic technology. Agencies are encouraged to post and maintain the programs on their Web sites.

209.990 Penalties.
(1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.
(2) Any person who knowingly abuses or neglects an adult is guilty of a Class C felony.
(3) Any person who wantonly abuses or neglects an adult is guilty of a Class D felony.
(4) Any person who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.
(5) Any person who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class C felony.
(6) Any person who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class D felony.
(7) Any person who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.

922 KAR 5:070
Adult Protective Services

RELATES TO: KRS 61.872, 194A.010, 209.005 -209.200, 202A.051, 202B.100, 387.540(1)
STATUTORY AUTHORITY: KRS 194A.050(1), 209.030(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to adopt all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 209.030(1) authorizes the secretary to promulgate administrative regulations necessary for the implementation of adult protective services. This administrative regulation establishes the procedures for investigation and protection of adults who are suffering or at risk of abuse, neglect, or exploitation.

Section 1. Definitions. (1) "Abuse" is defined by KRS 209.020(8).

(2) "Adult" is defined by KRS 209.020(4).

(3) "Authorized agency" is defined by KRS 209.020(17).

(4) "Caretaker" is defined by KRS 209.020(6).

(5) "Emergency" is defined by KRS 209.020(11).

(6) "Exploitation" is defined by KRS 209.020(9).

(7) "Investigation" is defined by KRS 209.020(10).

(8) "Neglect" is defined by KRS 209.020(16).

(9) "Protective services" is defined by KRS 209.020(5).

(10) "Records" is defined by KRS 209.020(15).

Section 2. Receiving a Report. (1) An individual suspecting that an adult has suffered abuse, neglect, or exploitation shall:

(a) Report to the cabinet in accordance with KRS 209.030(2) and (3); and

(b) Provide the information specified in KRS 209.030(4).

(2) The identity of the reporting individual shall remain confidential in accordance with KRS 209.140.

(3) The cabinet shall make available a twenty-four (24) hour on-call response system for emergency reporting after normal office hours.

(4) The cabinet shall investigate an anonymous report that provides sufficient information regarding the alleged abuse, neglect, or exploitation of an adult.

(5) If a report does not meet criteria for investigation, the cabinet may refer the reporting source to:

(a) Community resources;

(b) General adult services in accordance with 922 KAR 5:090; or

(c) Domestic violence protective services in accordance with 922 KAR 5:102.

(6) Upon accepting a report for investigation of alleged adult abuse, neglect, or exploitation, the cabinet shall:

(a) Conduct an initial assessment and initiate an investigation in accordance with KRS 209.030(5); and

(b) Take into consideration the safety of the adult when proceeding with the actions necessary to initiate an investigation.

(7) The cabinet shall initiate an investigation upon acceptance of a report of:

(a) Abuse, as defined in KRS 209.020(8), if the report alleges:

1. Marks that are or have been observed on an adult that another individual allegedly inflicted;

2. Physical abuse inflicted upon the adult resulting in pain or injury, including a mental injury;

3. An adult being hit in a critical area of the body, such as the head, face, neck, genitals, abdomen, and kidney areas; or

4. An act of sexual abuse;

(b) Neglect, as defined in KRS 209.020(16), of an adult that may result in harm to the health and safety of the adult in the following areas:

1. Hygiene neglect, if the adult has physical symptoms that require treatment due to poor care as a result of:

a. An act or omission by a caretaker; or

b. The absence of a caretaker;

2. Supervision neglect, if the reporting source has observed a physical health and safety risk to an adult resulting from a lack of necessary and appropriate supervision;

3. Food neglect, if an adult shows symptoms of:

a. Malnutrition;

b. Dehydration;

c. Food poisoning; or

d. Lack of adequate food for a period of time that:

(i) Results in physical symptoms; or

(ii) Requires treatment;

4. Environmental neglect, if a serious health and safety hazard is present, and the adult or the adult's caretaker is not taking appropriate action to eliminate the problem; or

5. Medical neglect, if the adult is not receiving treatment for an injury, illness, or disability that:

a. Results in an observable decline in the adult's health and welfare;

b. May be life threatening; or

c. May result in permanent impairment;

(c) Exploitation of an adult, as defined in KRS 209.020(9), if the report alleges:

1. Isolation from friends, relatives, or important information, such as:

a. Screening telephone calls;

b. Denying visitors; or

c. Intercepting mail;

2. Physical or emotional dependency;

3. Manipulation;

4. Acquiescence; and

5. Loss of resources; or

(d) An adult in need of protective services as defined in KRS 209.020(5).

(8) If a report alleging the exploitation of an adult does not meet criteria established in subsection (7)(c) of this section, the report may be referred to an appropriate authorized agency or community resource.

(9) The following criteria shall be used in identifying a report of adult abuse, neglect, or exploitation not requiring an adult protective service investigation:

(a) The report does not meet the statutory definitions of:

1. Adult; and

2.a. Abuse;

b. Neglect; or

c. Exploitation; or

(b) There is insufficient information to:

1. Identify or locate the adult; or

2. Explore leads to identify or locate the adult.

(10) For a report accepted for investigation of alleged adult abuse, neglect, or exploitation, designated regional cabinet staff shall:

(a) Prepare an intake report on the "DPP-115, Confidential Suspected Abuse/Neglect, Dependency or Exploitation Reporting Form"; and

(b) Submit the DPP-115:

1. For a determination of investigation assignment by cabinet supervisory staff;

2. To the local guardianship office, if the adult is a state guardianship client; and

3. To appropriate authorized agencies, as specified in KRS 209.030(5).

Section 3. Adult Protective Service Investigations. (1) The cabinet shall coordinate its investigation in accordance with KRS 209.030(6).

(2) An adult protective service investigation may include contact with the alleged perpetrator and collaterals, if the contact does not pose a safety concern for the adult or cabinet staff.

(3) Information obtained as a result of a protective service investigation shall be kept confidential in accordance with KRS 209.140.

(4) Requests for written information of the protective service investigation, except for court ordered releases, shall be handled through the open records process in accordance with KRS 61.872 and 922 KAR 1:510.

(5) Designated regional cabinet staff shall initiate the investigation of a report of adult abuse, neglect, or exploitation. If the accepted report of adult abuse, neglect, or exploitation with the expressed permission of the adult indicates:

(a) An emergency, as defined in KRS 209.020(11), the investigation shall be initiated within one (1) hour; or

(b) A nonemergency, the investigation shall be initiated within forty-eight (48) hours.

(6) If permission is granted by the adult, designated regional cabinet staff may take photographs, audio, or video recordings.

(7)(a) The cabinet shall obtain a written voluntary statement of adult abuse, neglect, or exploitation if the adult, witness, or alleged perpetrator is willing to provide the written statement; and

(b) The cabinet shall inform the adult, witness or alleged perpetrator that the:

1. Statement may be shared with appropriate authorized agencies; and

2. Individual may be required to testify in a court of law.

(8) If investigating reports of alleged abuse or neglect of an adult resulting in death, designated regional cabinet staff shall:

(a) Examine the coroner's or doctor's report;

(b) Obtain a copy of the death certificate for the case record, if possible;

(c) Notify the commissioner or designee;

(d) Consult with appropriate law enforcement, in accordance with KRS 209.030(6)(a) in completing the investigation, if an adult died allegedly as a result of abuse or neglect; and

(e) Determine if another resident in an alternate care facility is at risk of abuse or neglect, if the findings of an investigation suggest that an adult in the alternate care facility died allegedly as a result of abuse or neglect.

(9) Unless the legal representative is alleged to have abused, neglected, or exploited the adult, a legal representative may act on behalf of an adult for purposes of this administrative regulation.

Section 4. Results of the Investigation. (1) Designated regional cabinet staff shall address the following when evaluating the results of the investigation:

(a) The adult's account of the situation, if possible;

(b) The alleged perpetrator's account of the situation, if available;

(c) The information supplied by collateral contact;

(d) Records and documents;

(e) The assessment information;

(f) Previous reports involving the adult or alleged perpetrator; and

(g) Other information relevant to the protection of an adult.

(2) The findings of the adult protective service investigation shall be:

(a) Shared with appropriate authorized agencies in accordance with KRS 209.030(5); and

(b) Documented on the cabinet's database.

(3) Designated regional cabinet staff shall maintain a written record, as specified in KRS 209.030(5), to include:

(a) The DPP-115; and

(b) A narrative documenting:

1. The investigation; and

2. Findings of the investigation.

(4) If an issue or concern identified by the cabinet does not require a protective service case being opened, the cabinet may work with the adult to develop an aftercare plan:

(a) At the consent of the adult; and

(b) In an effort to prevent a recurrence of adult abuse, neglect, or exploitation.

Section 5. Substantiation Criteria and Submission of Findings. (1) In determining if an allegation is substantiated, the cabinet shall use the statutory definitions of:

(a) Adult; and

(b)1. Abuse;

2. Neglect; or

3. Exploitation.

(2) If preponderance of evidence exists, designated regional cabinet staff may make a finding of and substantiate abuse, neglect, or exploitation.

(3) A finding made by cabinet staff shall not be a judicial finding.

(4) Cabinet supervisory staff shall review and approve a finding of an investigation prior to its finalization.

Section 6. Opening a Case. (1) A case may be opened:

(a) As a result of a protective service investigation; or

(b) Upon identification of an adult through a general adult services assessment as being at risk of abuse, neglect, or exploitation.

(2) The decision to open a case shall be based on the:

(a) Voluntary request for, or acceptance of, services by an adult who needs adult protection or general adult services; or

(b) Need for involuntary emergency protective services.

(3) If it has been determined that an adult is incapable of giving consent to receive protective services, the court may assume jurisdiction and issue an ex parte order in accordance with KRS 209.130.

(4) Emergency protective services shall be provided in accordance with KRS 209.110.

(5) The cabinet shall develop an adult's case plan with the adult and, upon consent of the adult, may include consideration of the following:

(a) Designated regional cabinet staff;

(b) Family members;

(c) Family friends;

(d) Community partners; or

(e) Other individuals requested by the adult.

(6) Within thirty (30) calendar days of opening a case, designated regional cabinet staff shall:

(a) Initiate a case plan with the adult; and

(b) Submit the plan to supervisory staff for approval.

Section 7. Referrals for Criminal Prosecution. The cabinet shall refer substantiated reports of adult abuse, neglect, or exploitation to Commonwealth attorneys and county attorneys for consideration of criminal prosecution in accordance with KRS 209.180.

Section 8. Restraining Order or Injunctive Relief. If necessary, designated regional cabinet staff shall contact the cabinet's Office of Legal Services for advice and assistance in obtaining restraining orders or other forms of injunctive relief that may be issued for protection of an adult, in accordance with KRS 209.040.

Section 9. Guardianship or Conservatorship of Disabled Persons. (1) In an attempt to provide appropriate protective services, designated regional cabinet staff shall assess the need for guardianship if an individual appears unable to make an informed choice to:

(a) Manage personal affairs;

(b) Manage financial affairs; or

(c) Carry out the activities of daily living.

(2) Designated regional cabinet staff may assist in protective service situations in seeking out family, friends, or other interested and qualified individuals who are willing and capable to become guardians.

(3) Upon an order of the court, the cabinet shall file an interdisciplinary evaluation report in accordance with KRS 387.540(1).

Section 10. Involuntary Hospitalization. (1) Designated regional cabinet staff shall encourage the voluntary hospitalization of an adult who needs to secure mental health treatment to avoid serious physical injury or death.

(2) Designated regional cabinet staff may file a petition for involuntary hospitalization in accordance with KRS 202A.051 and 202B.100 if:

(a) The adult lacks the capacity to consent or refuses mental health treatment;

(b) Other resources are not available;

(c) Another petitioner is absent or unavailable; and

(d) Prior cabinet supervisory approval is obtained.

Section 11. Reporting. (1) Reports of adult abuse, neglect, or exploitation shall be maintained in the cabinet's database for:

(a) Use in future investigations; and

(b) Annual reporting requirements as specified in KRS 209.030(12).

(2) The cabinet shall submit a report annually to the Governor and Legislative Research Commission in accordance with KRS 209.030(12)(b).

(a) In addition to the information required by KRS 209.030(12)(b), the summary of reports received by the cabinet shall include for each individual who is the subject of a report:

1. Age;
2. Demographics;
3. Type of abuse;
4. The number of:
a. Accepted reports; and
b. Substantiated reports; and
5. Other information relevant to the protection of an adult.

(b) The information required in paragraph (a) of this subsection shall only be provided if it does not identify an individual.

Section 12. Case Closure and Aftercare Planning. (1) The cabinet's decision to close an adult protective service case shall be based upon:

(a) Evidence that the factors resulting in adult abuse, neglect, or exploitation are resolved to the extent that the adult's needs have been met;

(b) The request of the adult; or

(c) A lack of legal authority to obtain court ordered cooperation from the adult.

(2) An adult shall be:

(a) Notified in writing of the decision to close the protective service case; and

(b) Advised of the right to request a service appeal in accordance with Section 13 of this administrative regulation.

(3) If an adult protective service case is appropriate for closure, the cabinet may work with the adult to develop an aftercare plan:

(a) At the consent of the adult; and

(b) In an effort to prevent a recurrence of adult abuse, neglect, or exploitation.

(4) If the cabinet closes the protective service case in accordance with this section, aftercare planning may link the adult to community resources for the purpose of continuing preventive measures.

Section 13. Appeal Rights. A victim of adult abuse, neglect, or exploitation may request a service appeal in accordance with 922 KAR 1:320, Section 2.

Section 14. Incorporation by Reference. (1) "DPP-115, Confidential Suspected Abuse/Neglect, Dependency, or Exploitation Reporting Form", edition 9/05, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (17 Ky.R. 3618; eff. 8-21-91; Am. 21 Ky.R. 667; eff. 9-21-94; Recodified from 905 KAR 5:070, 10-30-98; Am. 25 Ky.R. 2473; 26 Ky.R. 81; 403; eff. 8-16-99; 32 Ky.R. 1002; 1450; 1677; eff. 3-9-2006.)

Appendix D
Elder Justice Act

Public Act 111 - 148
Patient Protection and Affordable Care Act
TITLE VI
Subtitle H—ELDER JUSTICE ACT

SEC. 6701. SHORT TITLE OF SUBTITLE.
This subtitle may be cited as the `Elder Justice Act of 2009'.
SEC. 6702. DEFINITIONS.
Except as otherwise specifically provided, any term that is defined in section 2011 of the Social Security Act (as added by section 6703(a)) and is used in this subtitle has the meaning given such term by such section.
SEC. 6703. ELDER JUSTICE.
(a) Elder Justice-
(1) IN GENERAL- Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended--
(A) in the heading, by inserting `**AND ELDER JUSTICE**' after `**SOCIAL SERVICES**';
(B) by inserting before section 2001 the following:
`**Subtitle A--Block Grants to States for Social Services**';
and
(C) by adding at the end the following:
`**Subtitle B--Elder Justice**
SEC. 2011. DEFINITIONS.
`In this subtitle:
`(1) ABUSE- The term `abuse' means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.`
(2) ADULT PROTECTIVE SERVICES- The term `adult protective services' means such services provided to adults as the Secretary may specify and includes services such as--
`(A) receiving reports of adult abuse, neglect, or exploitation;
`(B) investigating the reports described in subparagraph (A);
`(C) case planning, monitoring, evaluation, and other case work and services; and
`(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.
`(3) CAREGIVER- The term `caregiver' means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder who needs supportive services in any setting.
`(4) DIRECT CARE- The term `direct care' means care by an employee or contractor who provides assistance or long-term care services to a recipient.
`(5) ELDER- The term `elder' means an individual age 60 or older.
`(6) ELDER JUSTICE- The term `elder justice' means--
`(A) from a societal perspective, efforts to--
`(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and
`(ii) protect elders with diminished capacity while maximizing their autonomy; and
`(B) from an individual perspective, the recognition of an elder's rights, including the right to be free of abuse, neglect, and exploitation.
`(7) ELIGIBLE ENTITY- The term `eligible entity' means a State or local government agency, Indian tribe or tribal organization, or any other public or private entity that is engaged in and has expertise in issues relating to elder justice or in a field necessary to promote elder justice efforts.
`(8) EXPLOITATION- The term `exploitation' means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

`(9) FIDUCIARY- The term `fiduciary'--
`(A) means a person or entity with the legal responsibility--
`(i) to make decisions on behalf of and for the benefit of another person; and
`(ii) to act in good faith and with fairness; and
`(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.
`(10) GRANT- The term `grant' includes a contract, cooperative agreement, or other mechanism for providing financial assistance.
`(11) GUARDIANSHIP- The term `guardianship' means--
`(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care or property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;
`(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or
`(C) the manner in which the court exercises oversight of the surrogate decisionmaker.
`(12) INDIAN TRIBE-
`(A) IN GENERAL- The term `Indian tribe' has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
`(B) INCLUSION OF PUEBLO AND RANCHERIA- The term `Indian tribe' includes any Pueblo or Rancheria.
`(13) LAW ENFORCEMENT- The term `law enforcement' means the full range of potential responders to elder abuse, neglect, and exploitation including--
`(A) police, sheriffs, detectives, public safety officers, and corrections personnel;
`(B) prosecutors;
`(C) medical examiners;
`(D) investigators; and
`(E) coroners.
`(14) LONG-TERM CARE-
`(A) IN GENERAL- The term `long-term care' means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.
`(B) LOSS OF CAPACITY FOR SELF-CARE- For purposes of subparagraph (A), the term `loss of capacity for self-care' means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, management of one's financial affairs, and other activities the Secretary determines appropriate.
`(15) LONG-TERM CARE FACILITY- The term `long-term care facility' means a residential care provider that arranges for, or directly provides, long-term care.
`(16) NEGLECT- The term `neglect' means--
`(A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or
`(B) self-neglect.
`(17) NURSING FACILITY-
`(A) IN GENERAL- The term `nursing facility' has the meaning given such term under section 1919(a).
`(B) INCLUSION OF SKILLED NURSING FACILITY- The term `nursing facility' includes a skilled nursing facility (as defined in section 1819(a)).
`(18) SELF-NEGLECT- The term `self-neglect' means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including--
`(A) obtaining essential food, clothing, shelter, and medical care;
`(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
`(C) managing one's own financial affairs.
`(19) SERIOUS BODILY INJURY-
`(A) IN GENERAL- The term `serious bodily injury' means an injury--
`(i) involving extreme physical pain;
`(ii) involving substantial risk of death;
`(iii) involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or
`(iv) requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

`(B) CRIMINAL SEXUAL ABUSE- Serious bodily injury shall be considered to have occurred if the conduct causing the injury is conduct described in section 2241 (relating to aggravated sexual abuse) or 2242 (relating to sexual abuse) of title 18, United States Code, or any similar offense under State law.
`(20) SOCIAL- The term `social', when used with respect to a service, includes adult protective services.
`(21) STATE LEGAL ASSISTANCE DEVELOPER- The term `State legal assistance developer' means an individual described in section 731 of the Older Americans Act of 1965.
`(22) STATE LONG-TERM CARE OMBUDSMAN- The term `State Long-Term Care Ombudsman' means the State Long-Term Care Ombudsman described in section 712(a)(2) of the Older Americans Act of 1965.

SEC. 2012. GENERAL PROVISIONS.
`(a) Protection of Privacy- In pursuing activities under this subtitle, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.
`(b) Rule of Construction- Nothing in this subtitle shall be construed to interfere with or abridge an elder's right to practice his or her religion through reliance on prayer alone for healing when this choice--
`(1) is contemporaneously expressed, either orally or in writing, with respect to a specific illness or injury which the elder has at the time of the decision by an elder who is competent at the time of the decision;
`(2) is previously set forth in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or
`(3) may be unambiguously deduced from the elder's life history.

PART I--NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND RESEARCH

Subpart A--Elder Justice Coordinating Council and Advisory Board on Elder Abuse, Neglect, and Exploitation

SEC. 2021. ELDER JUSTICE COORDINATING COUNCIL.
`(a) Establishment- There is established within the Office of the Secretary an Elder Justice Coordinating Council (in this section referred to as the `Council').
`(b) Membership-
`(1) IN GENERAL- The Council shall be composed of the following members:
`(A) The Secretary (or the Secretary's designee).
`(B) The Attorney General (or the Attorney General's designee).
`(C) The head of each Federal department or agency or other governmental entity identified by the Chair referred to in subsection (d) as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation.
`(2) REQUIREMENT- Each member of the Council shall be an officer or employee of the Federal Government.
`(c) Vacancies- Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.
`(d) Chair- The member described in subsection (b)(1)(A) shall be Chair of the Council.
`(e) Meetings- The Council shall meet at least 2 times per year, as determined by the Chair.
`(f) Duties-
`(1) IN GENERAL- The Council shall make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant Federal, State, local, and private agencies and entities, relating to elder abuse, neglect, and exploitation and other crimes against elders.
`(2) REPORT- Not later than the date that is 2 years after the date of enactment of the Elder Justice Act of 2009 and every 2 years thereafter, the Council shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report that--
`(A) describes the activities and accomplishments of, and challenges faced by--
`(i) the Council; and
`(ii) the entities represented on the Council; and

'(B) makes such recommendations for legislation, model laws, or other action as the Council determines to be appropriate.
'(g) Powers of the Council-
'(1) INFORMATION FROM FEDERAL AGENCIES- Subject to the requirements of section 2012(a), the Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon request of the Chair of the Council, the head of such department or agency shall furnish such information to the Council.
'(2) POSTAL SERVICES- The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.
'(h) Travel Expenses- The members of the Council shall not receive compensation for the performance of services for the Council. The members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Council.
'(i) Detail of Government Employees- Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.
'(j) Status as Permanent Council- Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.
'(k) Authorization of Appropriations- There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 2022. ADVISORY BOARD ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.
'(a) Establishment- There is established a board to be known as the 'Advisory Board on Elder Abuse, Neglect, and Exploitation' (in this section referred to as the 'Advisory Board') to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council established under section 2021.
'(b) Composition- The Advisory Board shall be composed of 27 members appointed by the Secretary from among members of the general public who are individuals with experience and expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution.
'(c) Solicitation of Nominations- The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the Advisory Board under subsection (b).
'(d) Terms-
'(1) IN GENERAL- Each member of the Advisory Board shall be appointed for a term of 3 years, except that, of the members first appointed—
'(A) 9 shall be appointed for a term of 3 years;
'(B) 9 shall be appointed for a term of 2 years; and
'(C) 9 shall be appointed for a term of 1 year.
'(2) VACANCIES-
'(A) IN GENERAL- Any vacancy on the Advisory Board shall not affect its powers, but shall be filled in the same manner as the original appointment was made.
'(B) FILLING UNEXPIRED TERM- An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.
'(3) EXPIRATION OF TERMS- The term of any member shall not expire before the date on which the member's successor takes office.
'(e) Election of Officers- The Advisory Board shall elect a Chair and Vice Chair from among its members. The Advisory Board shall elect its initial Chair and Vice Chair at its initial meeting.
'(f) Duties-
'(1) ENHANCE COMMUNICATION ON PROMOTING QUALITY OF, AND PREVENTING ABUSE, NEGLECT, AND EXPLOITATION IN, LONG-TERM CARE- The Advisory Board shall develop collaborative and innovative approaches to improve the quality of, including preventing abuse, neglect, and exploitation in, long-term care.
'(2) COLLABORATIVE EFFORTS TO DEVELOP CONSENSUS AROUND THE MANAGEMENT OF CERTAIN QUALITY-RELATED FACTORS-

`(A) IN GENERAL- The Advisory Board shall establish multidisciplinary panels to address, and develop consensus on, subjects relating to improving the quality of long-term care. At least 1 such panel shall address, and develop consensus on, methods for managing resident-to-resident abuse in long-term care.
`(B) ACTIVITIES CONDUCTED- The multidisciplinary panels established under subparagraph (A) shall examine relevant research and data, identify best practices with respect to the subject of the panel, determine the best way to carry out those best practices in a practical and feasible manner, and determine an effective manner of distributing information on such subject.
`(3) REPORT- Not later than the date that is 18 months after the date of enactment of the Elder Justice Act of 2009, and annually thereafter, the Advisory Board shall prepare and submit to the Elder Justice Coordinating Council, the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing--
`(A) information on the status of Federal, State, and local public and private elder justice activities;
`(B) recommendations (including recommended priorities) regarding--
`(i) elder justice programs, research, training, services, practice, enforcement, and coordination;
`(ii) coordination between entities pursuing elder justice efforts and those involved in related areas that may inform or overlap with elder justice efforts, such as activities to combat violence against women and child abuse and neglect; and
`(iii) activities relating to adult fiduciary systems, including guardianship and other fiduciary arrangements;
`(C) recommendations for specific modifications needed in Federal and State laws (including regulations) or for programs, research, and training to enhance prevention, detection, and treatment (including diagnosis) of, intervention in (including investigation of), and prosecution of elder abuse, neglect, and exploitation;
`(D) recommendations on methods for the most effective coordinated national data collection with respect to elder justice, and elder abuse, neglect, and exploitation; and
`(E) recommendations for a multidisciplinary strategic plan to guide the effective and efficient development of the field of elder justice.
`(g) Powers of the Advisory Board-
`(1) INFORMATION FROM FEDERAL AGENCIES- Subject to the requirements of section 2012(a), the Advisory Board may secure directly from any Federal department or agency such information as the Advisory Board considers necessary to carry out this section. Upon request of the Chair of the Advisory Board, the head of such department or agency shall furnish such information to the Advisory Board.
`(2) SHARING OF DATA AND REPORTS- The Advisory Board may request from any entity pursuing elder justice activities under the Elder Justice Act of 2009 or an amendment made by that Act, any data, reports, or recommendations generated in connection with such activities.
`(3) POSTAL SERVICES- The Advisory Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.
`(h) Travel Expenses- The members of the Advisory Board shall not receive compensation for the performance of services for the Advisory Board. The members shall be allowed travel expenses for up to 4 meetings per year, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Board. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Advisory Board.
`(i) Detail of Government Employees- Any Federal Government employee may be detailed to the Advisory Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.
`(j) Status as Permanent Advisory Committee- Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.
`(k) Authorization of Appropriations- There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 2023. RESEARCH PROTECTIONS.
`(a) Guidelines- The Secretary shall promulgate guidelines to assist researchers working in the area of elder abuse, neglect, and exploitation, with issues relating to human subject protections.
`(b) Definition of Legally Authorized Representative for Application of Regulations- For purposes of the application of subpart A of part 46 of title 45, Code of Federal Regulations, to research conducted under this subpart, the term `legally authorized representative' means, unless otherwise provided by law, the individual or

judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person.

SEC. 2024. AUTHORIZATION OF APPROPRIATIONS.
'There are authorized to be appropriated to carry out this subpart--
'(1) for fiscal year 2011, $6,500,000; and
'(2) for each of fiscal years 2012 through 2014, $7,000,000.

Subpart B--Elder Abuse, Neglect, and Exploitation Forensic Centers

SEC. 2031. ESTABLISHMENT AND SUPPORT OF ELDER ABUSE, NEGLECT, AND EXPLOITATION FORENSIC CENTERS.
'(a) In General- The Secretary, in consultation with the Attorney General, shall make grants to eligible entities to establish and operate stationary and mobile forensic centers, to develop forensic expertise regarding, and provide services relating to, elder abuse, neglect, and exploitation.
'(b) Stationary Forensic Centers- The Secretary shall make 4 of the grants described in subsection (a) to institutions of higher education with demonstrated expertise in forensics or commitment to preventing or treating elder abuse, neglect, or exploitation, to establish and operate stationary forensic centers.
'(c) Mobile Centers- The Secretary shall make 6 of the grants described in subsection (a) to appropriate entities to establish and operate mobile forensic centers.
'(d) Authorized Activities-
'(1) DEVELOPMENT OF FORENSIC MARKERS AND METHODOLOGIES- An eligible entity that receives a grant under this section shall use funds made available through the grant to assist in determining whether abuse, neglect, or exploitation occurred and whether a crime was committed and to conduct research to describe and disseminate information on--
'(A) forensic markers that indicate a case in which elder abuse, neglect, or exploitation may have occurred; and
'(B) methodologies for determining, in such a case, when and how health care, emergency service, social and protective services, and legal service providers should intervene and when the providers should report the case to law enforcement authorities.
'(2) DEVELOPMENT OF FORENSIC EXPERTISE- An eligible entity that receives a grant under this section shall use funds made available through the grant to develop forensic expertise regarding elder abuse, neglect, and exploitation in order to provide medical and forensic evaluation, therapeutic intervention, victim support and advocacy, case review, and case tracking.
'(3) COLLECTION OF EVIDENCE- The Secretary, in coordination with the Attorney General, shall use data made available by grant recipients under this section to develop the capacity of geriatric health care professionals and law enforcement to collect forensic evidence, including collecting forensic evidence relating to a potential determination of elder abuse, neglect, or exploitation.
'(e) Application- To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.
'(f) Authorization of Appropriations- There are authorized to be appropriated to carry out this section--
'(1) for fiscal year 2011, $4,000,000;
'(2) for fiscal year 2012, $6,000,000; and
'(3) for each of fiscal years 2013 and 2014, $8,000,000.

PART II--PROGRAMS TO PROMOTE ELDER JUSTICE

SEC. 2041. ENHANCEMENT OF LONG-TERM CARE.
'(a) Grants and Incentives for Long-Term Care Staffing-
'(1) IN GENERAL- The Secretary shall carry out activities, including activities described in paragraphs (2) and (3), to provide incentives for individuals to train for, seek, and maintain employment providing direct care in long-term care.
'(2) SPECIFIC PROGRAMS TO ENHANCE TRAINING, RECRUITMENT, AND RETENTION OF STAFF-

`(A) COORDINATION WITH SECRETARY OF LABOR TO RECRUIT AND TRAIN LONG-TERM CARE STAFF- The Secretary shall coordinate activities under this subsection with the Secretary of Labor in order to provide incentives for individuals to train for and seek employment providing direct care in long-term care.
`(B) CAREER LADDERS AND WAGE OR BENEFIT INCREASES TO INCREASE STAFFING IN LONG-TERM CARE-
`(i) IN GENERAL- The Secretary shall make grants to eligible entities to carry out programs through which the entities--
`(I) offer, to employees who provide direct care to residents of an eligible entity or individuals receiving community-based long-term care from an eligible entity, continuing training and varying levels of certification, based on observed clinical care practices and the amount of time the employees spend providing direct care; and
`(II) provide, or make arrangements to provide, bonuses or other increased compensation or benefits to employees who achieve certification under such a program.
`(ii) APPLICATION- To be eligible to receive a grant under this subparagraph, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the eligible entity is located with respect to carrying out activities funded under the grant).
`(iii) AUTHORITY TO LIMIT NUMBER OF APPLICANTS- Nothing in this subparagraph shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this subparagraph.
`(3) SPECIFIC PROGRAMS TO IMPROVE MANAGEMENT PRACTICES-
`(A) IN GENERAL- The Secretary shall make grants to eligible entities to enable the entities to provide training and technical assistance.
`(B) AUTHORIZED ACTIVITIES- An eligible entity that receives a grant under subparagraph (A) shall use funds made available through the grant to provide training and technical assistance regarding management practices using methods that are demonstrated to promote retention of individuals who provide direct care, such as--
`(i) the establishment of standard human resource policies that reward high performance, including policies that provide for improved wages and benefits on the basis of job reviews;
`(ii) the establishment of motivational and thoughtful work organization practices;
`(iii) the creation of a workplace culture that respects and values caregivers and their needs;
`(iv) the promotion of a workplace culture that respects the rights of residents of an eligible entity or individuals receiving community-based long-term care from an eligible entity and results in improved care for the residents or the individuals; and
`(v) the establishment of other programs that promote the provision of high quality care, such as a continuing education program that provides additional hours of training, including on-the-job training, for employees who are certified nurse aides.
`(C) APPLICATION- To be eligible to receive a grant under this paragraph, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the eligible entity is located with respect to carrying out activities funded under the grant).
`(D) AUTHORITY TO LIMIT NUMBER OF APPLICANTS- Nothing in this paragraph shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this paragraph.
`(4) ACCOUNTABILITY MEASURES- The Secretary shall develop accountability measures to ensure that the activities conducted using funds made available under this subsection benefit individuals who provide direct care and increase the stability of the long-term care workforce.
`(5) DEFINITIONS- In this subsection:
`(A) COMMUNITY-BASED LONG-TERM CARE- The term `community-based long-term care' has the meaning given such term by the Secretary.
`(B) ELIGIBLE ENTITY- The term `eligible entity' means the following:
`(i) A long-term care facility.
`(ii) A community-based long-term care entity (as defined by the Secretary).
`(b) Certified EHR Technology Grant Program-
`(1) GRANTS AUTHORIZED- The Secretary is authorized to make grants to long-term care facilities for the purpose of assisting such entities in offsetting the costs related to purchasing, leasing, developing, and implementing certified EHR technology (as defined in section 1848(o)(4)) designed to improve patient safety and reduce adverse events and health care complications resulting from medication errors.

`(2) USE OF GRANT FUNDS- Funds provided under grants under this subsection may be used for any of the following:
`(A) Purchasing, leasing, and installing computer software and hardware, including handheld computer technologies.
`(B) Making improvements to existing computer software and hardware.
`(C) Making upgrades and other improvements to existing computer software and hardware to enable e-prescribing.
`(D) Providing education and training to eligible long-term care facility staff on the use of such technology to implement the electronic transmission of prescription and patient information.
`(3) APPLICATION-
`(A) IN GENERAL- To be eligible to receive a grant under this subsection, a long-term care facility shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the long-term care facility is located with respect to carrying out activities funded under the grant).
`(B) AUTHORITY TO LIMIT NUMBER OF APPLICANTS- Nothing in this subsection shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this subsection.
`(4) PARTICIPATION IN STATE HEALTH EXCHANGES- A long-term care facility that receives a grant under this subsection shall, where available, participate in activities conducted by a State or a qualified State-designated entity (as defined in section 3013(f) of the Public Health Service Act) under a grant under section 3013 of the Public Health Service Act to coordinate care and for other purposes determined appropriate by the Secretary.
`(5) ACCOUNTABILITY MEASURES- The Secretary shall develop accountability measures to ensure that the activities conducted using funds made available under this subsection help improve patient safety and reduce adverse events and health care complications resulting from medication errors.
`(c) Adoption of Standards for Transactions Involving Clinical Data by Long-Term Care Facilities-
`(1) STANDARDS AND COMPATIBILITY- The Secretary shall adopt electronic standards for the exchange of clinical data by long-term care facilities, including, where available, standards for messaging and nomenclature. Standards adopted by the Secretary under the preceding sentence shall be compatible with standards established under part C of title XI, standards established under subsections (b)(2)(B)(i) and (e)(4) of section 1860D-4, standards adopted under section 3004 of the Public Health Service Act, and general health information technology standards.
`(2) ELECTRONIC SUBMISSION OF DATA TO THE SECRETARY-
`(A) IN GENERAL- Not later than 10 years after the date of enactment of the Elder Justice Act of 2009, the Secretary shall have procedures in place to accept the optional electronic submission of clinical data by long-term care facilities pursuant to the standards adopted under paragraph (1).
`(B) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to require a long-term care facility to submit clinical data electronically to the Secretary.
`(3) REGULATIONS- The Secretary shall promulgate regulations to carry out this subsection. Such regulations shall require a State, as a condition of the receipt of funds under this part, to conduct such data collection and reporting as the Secretary determines are necessary to satisfy the requirements of this subsection.
`(d) Authorization of Appropriations- There are authorized to be appropriated to carry out this section--
`(1) for fiscal year 2011, $20,000,000;
`(2) for fiscal year 2012, $17,500,000; and
`(3) for each of fiscal years 2013 and 2014, $15,000,000.

SEC. 2042. ADULT PROTECTIVE SERVICES FUNCTIONS AND GRANT PROGRAMS.
`(a) Secretarial Responsibilities-
`(1) IN GENERAL- The Secretary shall ensure that the Department of Health and Human Services--
`(A) provides funding authorized by this part to State and local adult protective services offices that investigate reports of the abuse, neglect, and exploitation of elders;
`(B) collects and disseminates data annually relating to the abuse, exploitation, and neglect of elders in coordination with the Department of Justice;
`(C) develops and disseminates information on best practices regarding, and provides training on, carrying out adult protective services;
`(D) conducts research related to the provision of adult protective services; and

`(E) provides technical assistance to States and other entities that provide or fund the provision of adult protective services, including through grants made under subsections (b) and (c).
`(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this subsection, $3,000,000 for fiscal year 2011 and $4,000,000 for each of fiscal years 2012 through 2014.
`(b) Grants To Enhance the Provision of Adult Protective Services-
`(1) ESTABLISHMENT- There is established an adult protective services grant program under which the Secretary shall annually award grants to States in the amounts calculated under paragraph (2) for the purposes of enhancing adult protective services provided by States and local units of government.
`(2) AMOUNT OF PAYMENT-
`(A) IN GENERAL- Subject to the availability of appropriations and subparagraphs (B) and (C), the amount paid to a State for a fiscal year under the program under this subsection shall equal the amount appropriated for that year to carry out this subsection multiplied by the percentage of the total number of elders who reside in the United States who reside in that State.
`(B) GUARANTEED MINIMUM PAYMENT AMOUNT-
`(i) 50 STATES- Subject to clause (ii), if the amount determined under subparagraph (A) for a State for a fiscal year is less than 0.75 percent of the amount appropriated for such year, the Secretary shall increase such determined amount so that the total amount paid under this subsection to the State for the year is equal to 0.75 percent of the amount so appropriated.
`(ii) TERRITORIES- In the case of a State other than 1 of the 50 States, clause (i) shall be applied as if each reference to `0.75' were a reference to `0.1'.
`(C) PRO RATA REDUCTIONS- The Secretary shall make such pro rata reductions to the amounts described in subparagraph (A) as are necessary to comply with the requirements of subparagraph (B).
`(3) AUTHORIZED ACTIVITIES-
`(A) ADULT PROTECTIVE SERVICES- Funds made available pursuant to this subsection may only be used by States and local units of government to provide adult protective services and may not be used for any other purpose.
`(B) USE BY AGENCY- Each State receiving funds pursuant to this subsection shall provide such funds to the agency or unit of State government having legal responsibility for providing adult protective services within the State.
`(C) SUPPLEMENT NOT SUPPLANT- Each State or local unit of government shall use funds made available pursuant to this subsection to supplement and not supplant other Federal, State, and local public funds expended to provide adult protective services in the State.
`(4) STATE REPORTS- Each State receiving funds under this subsection shall submit to the Secretary, at such time and in such manner as the Secretary may require, a report on the number of elders served by the grants awarded under this subsection.
`(5) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this subsection, $100,000,000 for each of fiscal years 2011 through 2014.
`(c) State Demonstration Programs-
`(1) ESTABLISHMENT- The Secretary shall award grants to States for the purposes of conducting demonstration programs in accordance with paragraph (2).
`(2) DEMONSTRATION PROGRAMS- Funds made available pursuant to this subsection may be used by States and local units of government to conduct demonstration programs that test--
`(A) training modules developed for the purpose of detecting or preventing elder abuse;
`(B) methods to detect or prevent financial exploitation of elders;
`(C) methods to detect elder abuse;
`(D) whether training on elder abuse forensics enhances the detection of elder abuse by employees of the State or local unit of government; or
`(E) other matters relating to the detection or prevention of elder abuse.
`(3) APPLICATION- To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.
`(4) STATE REPORTS- Each State that receives funds under this subsection shall submit to the Secretary a report at such time, in such manner, and containing such information as the Secretary may require on the results of the demonstration program conducted by the State using funds made available under this subsection.
`(5) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this subsection, $25,000,000 for each of fiscal years 2011 through 2014.

SEC. 2043. LONG-TERM CARE OMBUDSMAN PROGRAM GRANTS AND TRAINING.

'(a) Grants To Support the Long-Term Care Ombudsman Program-

'(1) IN GENERAL- The Secretary shall make grants to eligible entities with relevant expertise and experience in abuse and neglect in long-term care facilities or long-term care ombudsman programs and responsibilities, for the purpose of—

'(A) improving the capacity of State long-term care ombudsman programs to respond to and resolve complaints about abuse and neglect;

'(B) conducting pilot programs with State long-term care ombudsman offices or local ombudsman entities; and

'(C) providing support for such State long-term care ombudsman programs and such pilot programs (such as through the establishment of a national long-term care ombudsman resource center).

'(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this subsection--

'(A) for fiscal year 2011, $5,000,000;

'(B) for fiscal year 2012, $7,500,000; and

'(C) for each of fiscal years 2013 and 2014, $10,000,000.

'(b) Ombudsman Training Programs-

'(1) IN GENERAL- The Secretary shall establish programs to provide and improve ombudsman training with respect to elder abuse, neglect, and exploitation for national organizations and State long-term care ombudsman programs.

'(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this subsection, for each of fiscal years 2011 through 2014, $10,000,000.

SEC. 2044. PROVISION OF INFORMATION REGARDING, AND EVALUATIONS OF, ELDER JUSTICE PROGRAMS.

'(a) Provision of Information- To be eligible to receive a grant under this part, an applicant shall agree--

'(1) except as provided in paragraph (2), to provide the eligible entity conducting an evaluation under subsection (b) of the activities funded through the grant with such information as the eligible entity may require in order to conduct such evaluation; or

'(2) in the case of an applicant for a grant under section 2041(b), to provide the Secretary with such information as the Secretary may require to conduct an evaluation or audit under subsection (c).

'(b) Use of Eligible Entities To Conduct Evaluations-

'(1) EVALUATIONS REQUIRED- Except as provided in paragraph (2), the Secretary shall--

'(A) reserve a portion (not less than 2 percent) of the funds appropriated with respect to each program carried out under this part; and

'(B) use the funds reserved under subparagraph (A) to provide assistance to eligible entities to conduct evaluations of the activities funded under each program carried out under this part.

'(2) CERTIFIED EHR TECHNOLOGY GRANT PROGRAM NOT INCLUDED- The provisions of this subsection shall not apply to the certified EHR technology grant program under section 2041(b).

'(3) AUTHORIZED ACTIVITIES- A recipient of assistance described in paragraph (1)(B) shall use the funds made available through the assistance to conduct a validated evaluation of the effectiveness of the activities funded under a program carried out under this part.

'(4) APPLICATIONS- To be eligible to receive assistance under paragraph (1)(B), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a proposal for the evaluation.

'(5) REPORTS- Not later than a date specified by the Secretary, an eligible entity receiving assistance under paragraph (1)(B) shall submit to the Secretary, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report containing the results of the evaluation conducted using such assistance together with such recommendations as the entity determines to be appropriate.

'(c) Evaluations and Audits of Certified EHR Technology Grant Program by the Secretary-

'(1) EVALUATIONS- The Secretary shall conduct an evaluation of the activities funded under the certified EHR technology grant program under section 2041(b). Such evaluation shall include an evaluation of whether the funding provided under the grant is expended only for the purposes for which it is made.

'(2) AUDITS- The Secretary shall conduct appropriate audits of grants made under section 2041(b).

SEC. 2045. REPORT.

'Not later than October 1, 2014, the Secretary shall submit to the Elder Justice Coordinating Council established under section 2021, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report--

'(1) compiling, summarizing, and analyzing the information contained in the State reports submitted under subsections (b)(4) and (c)(4) of section 2042; and

'(2) containing such recommendations for legislative or administrative action as the Secretary determines to be appropriate.

SEC. 2046. RULE OF CONSTRUCTION.

'Nothing in this subtitle shall be construed as--

'(1) limiting any cause of action or other relief related to obligations under this subtitle that is available under the law of any State, or political subdivision thereof; or

'(2) creating a private cause of action for a violation of this subtitle.'.

(2) OPTION FOR STATE PLAN UNDER PROGRAM FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES-

(A) IN GENERAL- Section 402(a)(1)(B) of the Social Security Act (42 U.S.C. 602(a)(1)(B)) is amended by adding at the end the following new clause:

'(v) The document shall indicate whether the State intends to assist individuals to train for, seek, and maintain employment--

'(I) providing direct care in a long-term care facility (as such terms are defined under section 2011); or

'(II) in other occupations related to elder care determined appropriate by the State for which the State identifies an unmet need for service personnel,

and, if so, shall include an overview of such assistance.'.

(B) EFFECTIVE DATE- The amendment made by subparagraph (A) shall take effect on January 1, 2011.

(b) Protecting Residents of Long-Term Care Facilities-

(1) NATIONAL TRAINING INSTITUTE FOR SURVEYORS-

(A) IN GENERAL- The Secretary of Health and Human Services shall enter into a contract with an entity for the purpose of establishing and operating a National Training Institute for Federal and State surveyors. Such Institute shall provide and improve the training of surveyors with respect to investigating allegations of abuse, neglect, and misappropriation of property in programs and long-term care facilities that receive payments under title XVIII or XIX of the Social Security Act.

(B) ACTIVITIES CARRIED OUT BY THE INSTITUTE- The contract entered into under subparagraph (A) shall require the Institute established and operated under such contract to carry out the following activities:

(i) Assess the extent to which State agencies use specialized surveyors for the investigation of reported allegations of abuse, neglect, and misappropriation of property in such programs and long-term care facilities.

(ii) Evaluate how the competencies of surveyors may be improved to more effectively investigate reported allegations of such abuse, neglect, and misappropriation of property, and provide feedback to Federal and State agencies on the evaluations conducted.

(iii) Provide a national program of training, tools, and technical assistance to Federal and State surveyors on investigating reports of such abuse, neglect, and misappropriation of property.

(iv) Develop and disseminate information on best practices for the investigation of such abuse, neglect, and misappropriation of property.

(v) Assess the performance of State complaint intake systems, in order to ensure that the intake of complaints occurs 24 hours per day, 7 days a week (including holidays).

(vi) To the extent approved by the Secretary of Health and Human Services, provide a national 24 hours per day, 7 days a week (including holidays), back-up system to State complaint intake systems in order to ensure optimum national responsiveness to complaints of such abuse, neglect, and misappropriation of property.

(vii) Analyze and report annually on the following:

(I) The total number and sources of complaints of such abuse, neglect, and misappropriation of property.

(II) The extent to which such complaints are referred to law enforcement agencies.

(III) General results of Federal and State investigations of such complaints.

(viii) Conduct a national study of the cost to State agencies of conducting complaint investigations of skilled nursing facilities and nursing facilities under sections 1819 and 1919, respectively, of the Social Security Act (42 U.S.C. 1395i-3; 1396r), and making recommendations to the Secretary of Health and Human Services with respect to options to increase the efficiency and cost-effectiveness of such investigations.

(C) AUTHORIZATION- There are authorized to be appropriated to carry out this paragraph, for the period of fiscal years 2011 through 2014, $12,000,000.
(2) GRANTS TO STATE SURVEY AGENCIES-
(A) IN GENERAL- The Secretary of Health and Human Services shall make grants to State agencies that perform surveys of skilled nursing facilities or nursing facilities under sections 1819 or 1919, respectively, of the Social Security Act (42 U.S.C. 1395i-3; 1395r).
(B) USE OF FUNDS- A grant awarded under subparagraph (A) shall be used for the purpose of designing and implementing complaint investigations systems that--
(i) promptly prioritize complaints in order to ensure a rapid response to the most serious and urgent complaints;
(ii) respond to complaints with optimum effectiveness and timeliness; and
(iii) optimize the collaboration between local authorities, consumers, and providers, including--
(I) such State agency;
(II) the State Long-Term Care Ombudsman;
(III) local law enforcement agencies;
(IV) advocacy and consumer organizations;
(V) State aging units;
(VI) Area Agencies on Aging; and
(VII) other appropriate entities.
(C) AUTHORIZATION- There are authorized to be appropriated to carry out this paragraph, for each of fiscal years 2011 through 2014, $5,000,000.
(3) REPORTING OF CRIMES IN FEDERALLY FUNDED LONG-TERM CARE FACILITIES- Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 6005, is amended by inserting after section 1150A the following new section:

REPORTING TO LAW ENFORCEMENT OF CRIMES OCCURRING IN FEDERALLY FUNDED LONG-TERM CARE FACILITIES

SEC. 1150B. (a) Determination and Notification-
'(1) DETERMINATION- The owner or operator of each long-term care facility that receives Federal funds under this Act shall annually determine whether the facility received at least $10,000 in such Federal funds during the preceding year.
'(2) NOTIFICATION- If the owner or operator determines under paragraph (1) that the facility received at least $10,000 in such Federal funds during the preceding year, such owner or operator shall annually notify each covered individual (as defined in paragraph (3)) of that individual's obligation to comply with the reporting requirements described in subsection (b).
'(3) COVERED INDIVIDUAL DEFINED- In this section, the term 'covered individual' means each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility that is the subject of a determination described in paragraph (1).
'(b) Reporting Requirements-
'(1) IN GENERAL- Each covered individual shall report to the Secretary and 1 or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime (as defined by the law of the applicable political subdivision) against any individual who is a resident of, or is receiving care from, the facility.
'(2) TIMING- If the events that cause the suspicion--
'(A) result in serious bodily injury, the individual shall report the suspicion immediately, but not later than 2 hours after forming the suspicion; and
'(B) do not result in serious bodily injury, the individual shall report the suspicion not later than 24 hours after forming the suspicion.
'(c) Penalties-
'(1) IN GENERAL- If a covered individual violates subsection (b)--
'(A) the covered individual shall be subject to a civil money penalty of not more than $200,000; and
'(B) the Secretary may make a determination in the same proceeding to exclude the covered individual from participation in any Federal health care program (as defined in section 1128B(f)).

'(2) INCREASED HARM- If a covered individual violates subsection (b) and the violation exacerbates the harm to the victim of the crime or results in harm to another individual--
'(A) the covered individual shall be subject to a civil money penalty of not more than $300,000; and
'(B) the Secretary may make a determination in the same proceeding to exclude the covered individual from participation in any Federal health care program (as defined in section 1128B(f)).
'(3) EXCLUDED INDIVIDUAL- During any period for which a covered individual is classified as an excluded individual under paragraph (1)(B) or (2)(B), a long-term care facility that employs such individual shall be ineligible to receive Federal funds under this Act.
'(4) EXTENUATING CIRCUMSTANCES-
'(A) IN GENERAL- The Secretary may take into account the financial burden on providers with underserved populations in determining any penalty to be imposed under this subsection.
'(B) UNDERSERVED POPULATION DEFINED- In this paragraph, the term 'underserved population' means the population of an area designated by the Secretary as an area with a shortage of elder justice programs or a population group designated by the Secretary as having a shortage of such programs. Such areas or groups designated by the Secretary may include--
'(i) areas or groups that are geographically isolated (such as isolated in a rural area);
'(ii) racial and ethnic minority populations; and
'(iii) populations underserved because of special needs (such as language barriers, disabilities, alien status, or age).
'(d) Additional Penalties for Retaliation-
'(1) IN GENERAL- A long-term care facility may not--
'(A) discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee; or
'(B) file a complaint or a report against a nurse or other employee with the appropriate State professional disciplinary agency because of lawful acts done by the nurse or employee,
for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to subsection (b)(1).
'(2) PENALTIES FOR RETALIATION- If a long-term care facility violates subparagraph (A) or (B) of paragraph (1) the facility shall be subject to a civil money penalty of not more than $200,000 or the Secretary may classify the entity as an excluded entity for a period of 2 years pursuant to section 1128(b), or both.
'(3) REQUIREMENT TO POST NOTICE- Each long-term care facility shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying the rights of employees under this section. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint.
'(e) Procedure- The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty or exclusion under this section in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).
'(f) Definitions- In this section, the terms 'elder justice', 'long-term care facility', and 'law enforcement' have the meanings given those terms in section 2011(c) National Nurse Aide Registry.
(1) DEFINITION OF NURSE AIDE- In this subsection, the term 'nurse aide' has the meaning given that term in sections 1819(b)(5)(F) and 1919(b)(5)(F) of the Social Security Act (42 U.S.C. 1395i-3(b)(5)(F); 1396r(b)(5)(F)).
(2) STUDY AND REPORT-
(A) IN GENERAL- The Secretary, in consultation with appropriate government agencies and private sector organizations, shall conduct a study on establishing a national nurse aide registry.
(B) AREAS EVALUATED- The study conducted under this subsection shall include an evaluation of--
(i) who should be included in the registry;
(ii) how such a registry would comply with Federal and State privacy laws and regulations;
(iii) how data would be collected for the registry;
(iv) what entities and individuals would have access to the data collected;
(v) how the registry would provide appropriate information regarding violations of Federal and State law by individuals included in the registry;

(vi) how the functions of a national nurse aide registry would be coordinated with the nationwide program for national and State background checks on direct patient access employees of long-term care facilities and providers under section 4301; and
(vii) how the information included in State nurse aide registries developed and maintained under sections 1819(e)(2) and 1919(e)(2) of the Social Security Act (42 U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)) would be provided as part of a national nurse aide registry.
(C) CONSIDERATIONS- In conducting the study and preparing the report required under this subsection, the Secretary shall take into consideration the findings and conclusions of relevant reports and other relevant resources, including the following:
(i) The Department of Health and Human Services Office of Inspector General Report, Nurse Aide Registries: State Compliance and Practices (February 2005).
(ii) The General Accounting Office (now known as the Government Accountability Office) Report, Nursing Homes: More Can Be Done to Protect Residents from Abuse (March 2002).
(iii) The Department of Health and Human Services Office of the Inspector General Report, Nurse Aide Registries: Long-Term Care Facility Compliance and Practices (July 2005).
(iv) The Department of Health and Human Services Health Resources and Services Administration Report, Nursing Aides, Home Health Aides, and Related Health Care Occupations--National and Local Workforce Shortages and Associated Data Needs (2004) (in particular with respect to chapter 7 and appendix F).
(v) The 2001 Report to CMS from the School of Rural Public Health, Texas A&M University, Preventing Abuse and Neglect in Nursing Homes: The Role of Nurse Aide Registries.
(vi) Information included in State nurse aide registries developed and maintained under sections 1819(e)(2) and 1919(e)(2) of the Social Security Act (42 U.S.C. 1395i-3(e)(2); 1396r(e)(2)(2)).
(D) REPORT- Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Elder Justice Coordinating Council established under section 2021 of the Social Security Act, as added by section 1805(a), the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the findings and recommendations of the study conducted under this paragraph.
(E) FUNDING LIMITATION- Funding for the study conducted under this subsection shall not exceed $500,000.
(3) CONGRESSIONAL ACTION- After receiving the report submitted by the Secretary under paragraph (2)(D), the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives shall, as they deem appropriate, take action based on the recommendations contained in the report.
(4) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as are necessary for the purpose of carrying out this subsection.
(d) Conforming Amendments-
(1) TITLE XX- Title XX of the Social Security Act (42 U.S.C. 1397 et seq.), as amended by section 6703(a), is amended--
(A) in the heading of section 2001, by striking 'TITLE' and inserting 'SUBTITLE'; and
(B) in subtitle 1, by striking 'this title' each place it appears and inserting 'this subtitle'.
(2) TITLE IV- Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended--
(A) in section 404(d)--
(i) in paragraphs (1)(A), (2)(A), and (3)(B), by inserting 'subtitle 1 of' before 'title XX' each place it appears;
(ii) in the heading of paragraph (2), by inserting 'SUBTITLE 1 OF' before 'TITLE XX'; and
(iii) in the heading of paragraph (3)(B), by inserting 'SUBTITLE 1 OF' before 'TITLE XX'; and
(B) in sections 422(b), 471(a)(4), 472(h)(1), and 473(b)(2), by inserting 'subtitle 1 of' before 'title XX' each place it appears.
(3) TITLE XI- Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended--
(A) in section 1128(h)(3)--
(i) by inserting 'subtitle 1 of' before 'title XX'; and
(ii) by striking 'such title' and inserting 'such subtitle'; and
(B) in section 1128A(i)(1), by inserting 'subtitle 1 of' before 'title XX'.

Appendix E
Resources

National Center on Elder Abuse (NCEA)

The National Center on Elder Abuse (NCEA) serves as a national resource center dedicated to the prevention of elder mistreatment. First established by the U.S. Administration on Aging (AoA) in 1988 as a national elder abuse resource center, the NCEA was granted a permanent home at AoA in the 1992 amendments made to Title II of the Older Americans Act. To carry out its mission, the NCEA disseminates elder abuse information to professionals and the public, and provides technical assistance and training to states and to community-based organizations. The NCEA makes news and resources available on-line and an easy-to-use format; collaborates on research; provides training; identifies and provides information about promising practices and interventions; operates a listserve forum for professionals; and provides subject matter expertise on program and policy development.

Since its inception, the NCEA has operated as a unique, multi-disciplinary consortium of equal partners with expertise in elder abuse, neglect, and exploitation. Over the years, the NCEA collaborators have addressed the provisions outlined in the OAA through various activities and worked towards assisting the nation better address and respond to elder abuse, neglect, and exploitation. Not only have the NCEA's collaborators come from various professional fields, the NCEA has proved a valuable resource to many professionals working in some way with older victims of elder mistreatment, including: adult protective services; national, state, and local aging networks; law enforcement; health care professionals; domestic violence networks; and others.

Now and into the future, the NCEA will continue to tailor its activities to meet the special needs of disadvantaged populations, including limited-English speakers and other underrepresented groups such as Native Americans. It will incorporate the latest technology to generate and disseminate knowledge that can build and strengthen elder rights networks and enhance the effectiveness of state and community-based elder abuse prevention and intervention programs. Furthermore, the NCEA will serve as a national clearinghouse of information for elder rights advocates, law enforcement, legal professionals, public policy leaders, researchers, and others working to ensure that all older Americans will live with dignity, integrity, independence, and without abuse, neglect, and exploitation.

National Center on Elder Abuse
297 Graham Hall
Newark, DE 19716

Telephone: 302-8313525

www.ncea.aoa.gov

National Adult Protective Services Association (NAPSA)

The National Adult Protective Services Association (NAPSA) is a national non-profit 501 (c) (6) organization with members in all fifty states, including the District of Columbia, the U.S. Virgin Islands, and Guam. It was formed in 1989 to provide state Adult Protective Services (APS) program administrators and staff with a forum for sharing information, solving problems, and improving the quality of services for victims of elder and vulnerable adult abuse. The organization is governed by a Board of Directors that includes the President, Past-President, President-Elect, Secretary, and Treasurer, as well as Regional Representatives and Committee Chairmen. There are nine national regions: Northeast I and II, Southeast I and II, Central, Mountain, Southwest, and West Coast I and II.

NAPSA is a partner in the National Center on Elder Abuse (NCEA) funded by the U. S. Administration on Aging, and a founding member of the Elder Justice Coalition. As part of an ongoing effort to increase collaboration with other national and state organizations, NAPSA has also participated in grant project activities with the American Bar Association Commission on Law and Aging, the Wisconsin Coalition Against Domestic Violence, the National Organization of Victims Advocates, the California District Attorneys Association and the International Association of Forensic Nurses.

NAPSA conducts annual national training events, research and innovation in the field of Adult Protective Services. The organization publishes a twice-yearly newsletter written for and by APS members that highlights innovative practices and APS activities throughout the nation. NAPSA is actively involved in conducting ongoing national research activities on topics such as APS training activities, services to self-neglecting adults and national APS data collection. Members regularly share publications, ideas, and copies of state statutes and materials for new projects with one another.

The mission of NAPSA is to improve the quality and availability of protective services for disabled adults and elderly persons who are abused, neglected, or exploited and are unable to protect their own interests.

National Adult Protective Services Association
Phone: (217) 523-4431
Fax: (217) 522-6650
920 S. Spring Street, Suite 1200
Springfield, IL 62704

http://www.apsnetwork.org/

National Committee for the Prevention of Elder Abuse (NCPEA)

The National Committee for the Prevention of Elder Abuse (NCPEA) is an association of researchers, practitioners, educators, and advocates dedicated to protecting the safety, security, and dignity of America's most vulnerable citizens. It was established in 1988 to achieve a clearer understanding of abuse and provide direction and leadership to prevent it. The Committee is one of six partners that make up the National Center on Elder Abuse, which is funded by Congress to serve as the nation's clearinghouse on information and materials on abuse and neglect.

The mission of NCPEA is to prevent abuse, neglect, and exploitation of older persons and adults with disabilities through research, advocacy, public and professional awareness, interdisciplinary exchange, and coalition building.

Specifically, NCPEA:

- Conducts research to reveal the causes of abuse and effective means for preventing it
- Contributes to the scientific knowledge base on elder abuse by identifying critical information needs and providing vehicles for the exchange of new research findings
- Promotes collaboration and the exchange of knowledge between diverse disciplines
- Provides professionals with information and training to help them effectively intervene in cases
- Promotes the growth of community coalitions to ensure comprehensive and well coordinated service delivery
- Raises community awareness about the problem and solutions
- Advocates for needed services and enlightened public policy

National Committee for the Prevention of Elder Abuse
1612 K Street, NW
Washington, D.C. 20006
(202) 682-4140
(202) 223-2099 (fax)

http://www.preventelderabuse.org/

National Association of State Units on Aging (NASUA)

Founded in 1964, the National Association of State Units on Aging (NASUA) is a non-profit association representing the nation's 56 officially designated state and territorial agencies on aging. The mission of the Association is to advance social, health, and economic policies responsive to the needs of a diverse aging population and to enhance the capacity of its membership to promote the rights, dignity and independence of, and expand opportunities and resources for, current and future generations of older persons, adults with disabilities and their families.

NASUA is the articulating force at the national level through which the state agencies on aging join together to promote social policy in the public and private sectors responsive to the challenges and opportunities of an aging America.

NASUA
1201 15th Street, NW
Suite 350
Washington, DC 20005
Phone: 202-898-2578
Fax: 202-898-2583

http://www.nasuad.org/

National Center for Victims of Crime

The National Center for Victims of Crime is the nation's leading resource and advocacy organization for crime victims and those who serve them. Since its inception in 1985, the National Center has worked with grassroots organizations and criminal justice agencies throughout the United States serving millions of crime victims.

The mission of the National Center for Victims of Crime is to forge a national commitment to help victims of crime rebuild their lives. We are dedicated to serving individuals, families, and communities harmed by crime.

Working with local, state, and federal partners, the National Center for Victims of Crime:

- Provides direct services and resources to victims of crime across the country;
- Advocates for laws and public policies that secure rights, resources, and protections for crime victims;
- Delivers training and technical assistance to victim service organizations, counselors, attorneys, criminal justice agencies, and allied professionals serving victims of crime; and
- Fosters cutting-edge thinking about the impact of crime and the ways in which each of us can help victims of crime rebuild their lives.

National Center for Victims of Crime
2000 M Street NW, Suite 480
Washington, DC 20036

Phone: (202) 467-8700
Fax: (202) 467-8701

http://www.ncvc.org/ncvc/Main.aspx