



# **Elder Abuse in Indiana: A Legal Primer**



**Kerry Hyatt Blomquist, JD**

# Defined: Elder Abuse

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Elder abuse is a term referring to any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult



# Physical Abuse

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Inflicting, or threatening to inflict, physical pain or injury on a vulnerable elder, or depriving them of a basic need



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▶ Emotional Abuse

Inflicting mental pain, anguish, or distress on an elder person through verbal or nonverbal acts

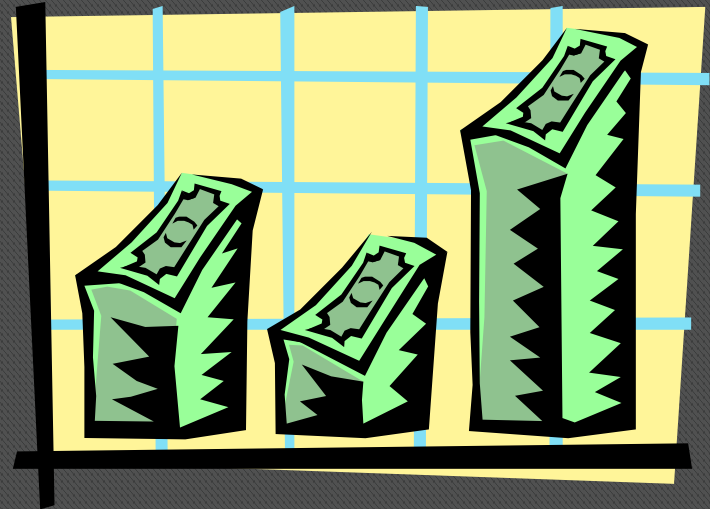
▶ Sexual Abuse

Non-consensual sexual contact of any kind



# Exploitation

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Illegal taking, misuse, or concealment of funds, property, or assets of a vulnerable elder



# Neglect

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Refusal or failure  
by those  
responsible to  
provide food,  
shelter, health  
care or  
protection for a  
vulnerable elder



## ▶ Abandonment

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The desertion of a vulnerable elder by anyone who has assumed the responsibility for care or custody of that person

## ▶ Self-Neglect

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Neglecting one's own care, leading to illness or injury



# Bottom Line:

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Nearly one in seven Americans age 65 or older are injured, exploited or otherwise mistreated by someone on whom they depend for care or protection, every year.



## ▶ CDC:

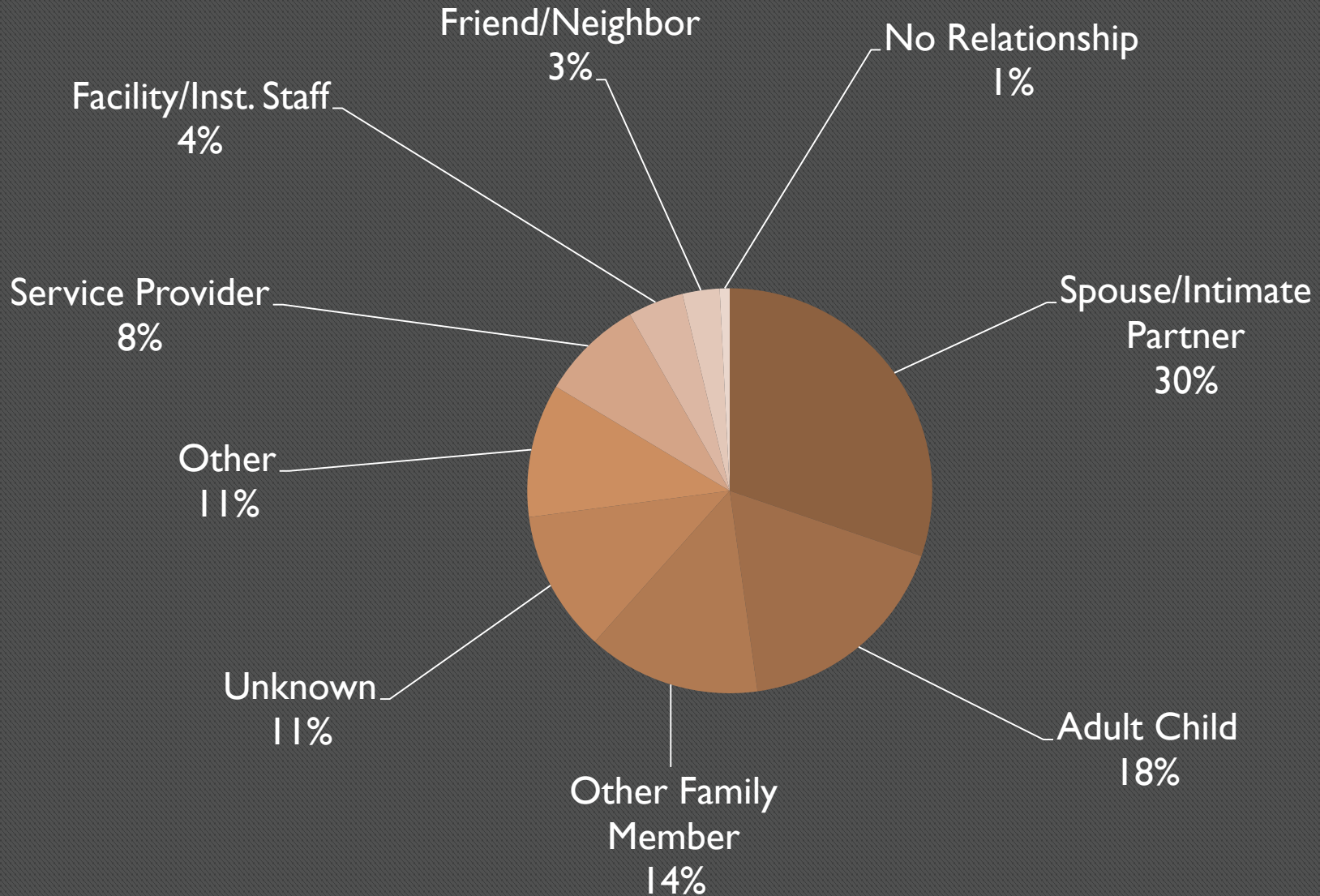
- ▶ Only 1 in 14 cases of elder abuse or neglect is REPORTED.
- ▶ The MEDIAN AGE of an ELDER ABUSE victim is 76.5 years.
- ▶ 65.4% of VICTIMS are CAUCASIAN.
- ▶ MOST are WOMEN.

MORE  
COMMON than  
you THINK

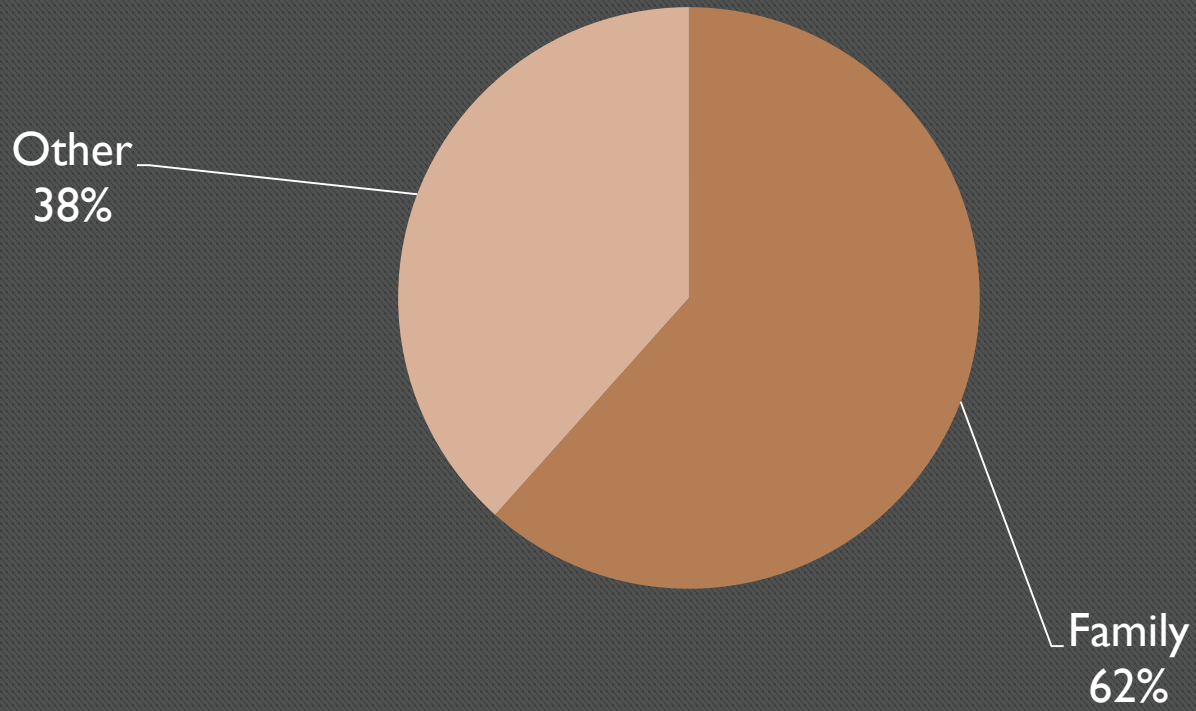
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# Perpetrators of Elder/Adult Abuse



# Perpetrators of Elder/Adult Abuse



# The Greatest Generation

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- ▶ Older adults who are abused or neglected are 3x more likely to die than those who are not abused
- ▶ Older adults who suffer from self-neglect, are nearly 2x more likely to die than those who do not

*Source: NIH News Release, 1998*



- ❑ Poor health
- ❑ Inability to perform activities of daily living
- ❑ Cognitive impairment
- ❑ Living with others (living alone increases risk for financial and self-abuse)
- ❑ Social isolation
- ❑ Depression, confusion, substance abuse or dependence
- ❑ Mental or physical impairment (stroke, incontinence, Alzheimer's)
- ❑ Being female
- ❑ Over age 85

## **Risk Factors for Being Abused**



# Theories Explaining Elder Abuse

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- ❑ affects of caregiver stress
- ❑ dependency of elder on caregiver
- ❑ mental or emotional disturbance of caregiver
- ❑ repeated cycle of violence
- ❑ power imbalance in relationships
- ❑ marginalization of the elderly within society



# **The Laws of Elder Abuse in Indiana**

**Focus: “endangered adults” in Indiana**

# IC 12-10-3-2(a)

## "Endangered adult" defined

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- ▶ .
  - ▶
    - (1) at least eighteen (18) years of age;
    - (2) incapable by reason of mental illness, mental retardation, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and
    - (3) harmed or threatened with harm as a result of:
      - (A) neglect;
      - (B) battery; or
      - (C) exploitation of the individual's personal services or property.
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# IC 12-10-3-2

## "Endangered Adult" defined

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▶ . ▶  
(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, and IC 35-46-1-13, "endangered adult" means an individual who is:

(1) at least eighteen (18) years of age;

(2) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and

(3) harmed or threatened with harm as a result of:

(A) neglect; or

(B) battery.

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▶

- ▶ Battery against an Endangered Adult-  
IC 35-42-2-1-(f)(D)
  - ▶ D Felony (Now Level 5)
- ▶ Battery against Endangered Adult  
causing SBI-35-42-2-1 (h)
  - ▶ C Felony (Level 4)
- ▶ Battery against Endangered Adult  
resulting in DEATH-35-42-2-1 (j)
  - ▶ B Felony (Level 2)

**Elder  
Abuse  
is a  
CRIME**



# IC 35-46-1-7

## Nonsupport of a parent

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(a) A person who knowingly or intentionally fails to provide support to his parent, when the parent is unable to support himself, commits nonsupport of a parent, a Class A misdemeanor.

(b) It is a defense that the accused person had not been supported by the parent during the time he was a dependent child under eighteen (18) years of age, unless the parent was unable to provide support.

(c) It is a defense that the accused person was unable to provide support.

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## IC 35-46-1-12

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**Exploitation of dependent or endangered adult;  
financial exploitation of endangered adult;  
violation classification**

- ▶ Class A Misdemeanor=Includes SS pilfering
  - ▶ Level 6 Felony if >\$10,000 OR endangered adult 60+
  - ▶ *Defense if power of attorney or appointed legal guardian*
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## IC 35-46-1-13

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**Battery, neglect, or exploitation of endangered adult; failure to report; unlawful disclosure; referrals; retaliation**

- ▶ (a) A person who: (1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation....and (2) knowingly fails to report the facts supporting that....commits a **Class B Misdemeanor**.



# INDIANA's Legal Response to Elder Abuse

- ▶ Adult Protective Services (APS) caseworkers are the first responders to reports of abuse, neglect and exploitation of vulnerable adults
- ▶ All 50 states and D.C. have enacted laws authorizing the provision of APS in cases of elder abuse.



# Indiana's Elder Abuse Law History

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- ▶ 1985
- ▶ Governor Robert Orr
- ▶ IC 12-10-3
- ▶ Adult Protective Services



# Indiana's APS Statute: IC 12-10-3

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- ▶ Legislature created and funded the APS program
- ▶ Indiana Prosecuting Attorneys Council (IPAC) assumed functional control





# APS: How It Works

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- ▶ Eighteen "**HUB**" prosecutors.
- ▶
- ▶ Indiana is the **only** state in which the APS workers are **not** social service personnel. (good stuff)
- ▶ Priorities: threat to a vulnerable adults **AND** bringing an abusive predator before the justice system.
- ▶ The APS investigators are charged with the investigation of **all** complaints, which allege the abuse, neglect, or exploitation of an **endangered adult**.

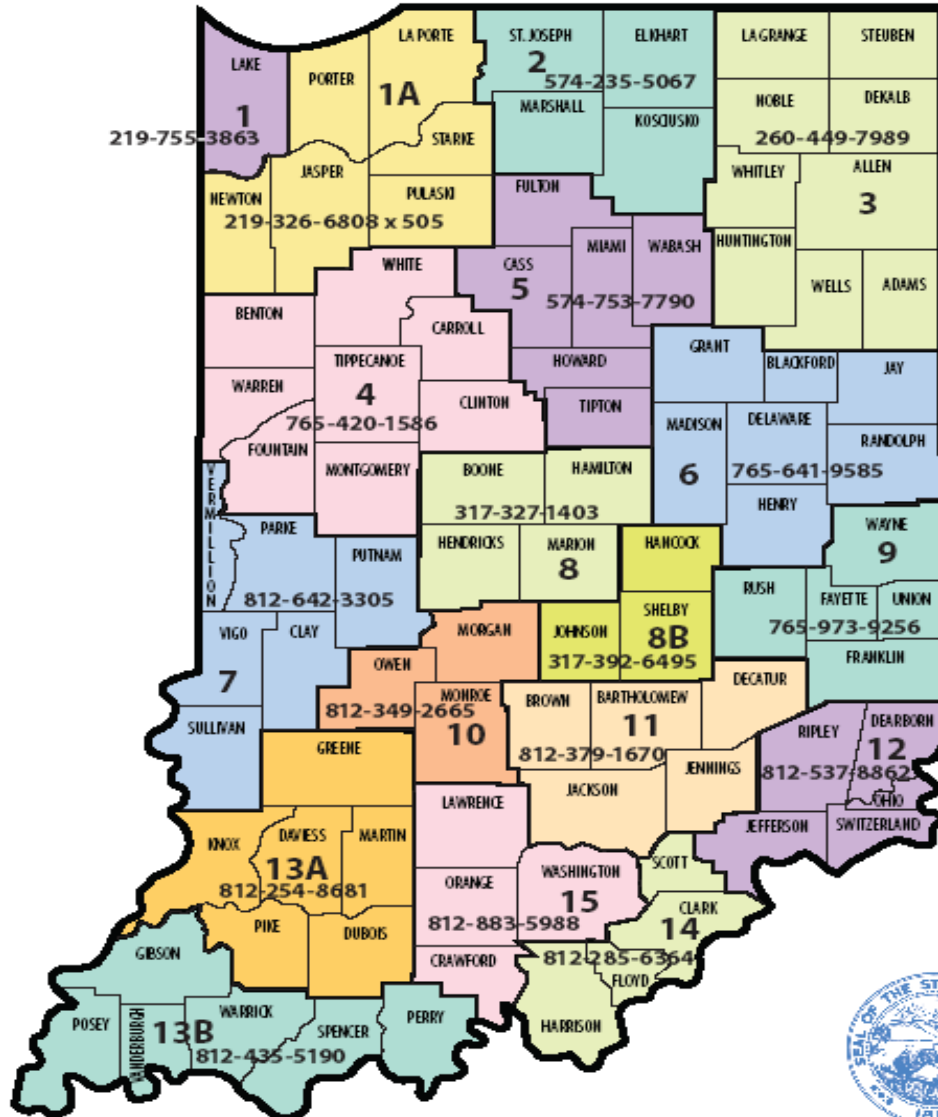




# Adult Protective Services

## Unit Geographic Boundaries

The 18 APS districts in Indiana



# Mandatory Reporting

- ▶ According to the American Bar Association, 44 States and the District of Columbia have Statutory Citations for Mandatory Reporting Provisions in Adult Protective Services Laws
- ▶ Six states do not: Colorado, New Jersey, New York, North Dakota, South Dakota and Wisconsin

# Indiana DOES: IC 35-46-1-13

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- ▶ Indiana has mandatory reporting requirements under IC 12-10-3-9 and IC 12-10-3-10.
- ▶ Any person is required to report suspected abuse, neglect, or exploitation to law enforcement, an APS unit or investigator, or the state hotline.



**Adult Protective Services  
Statewide Hotline**

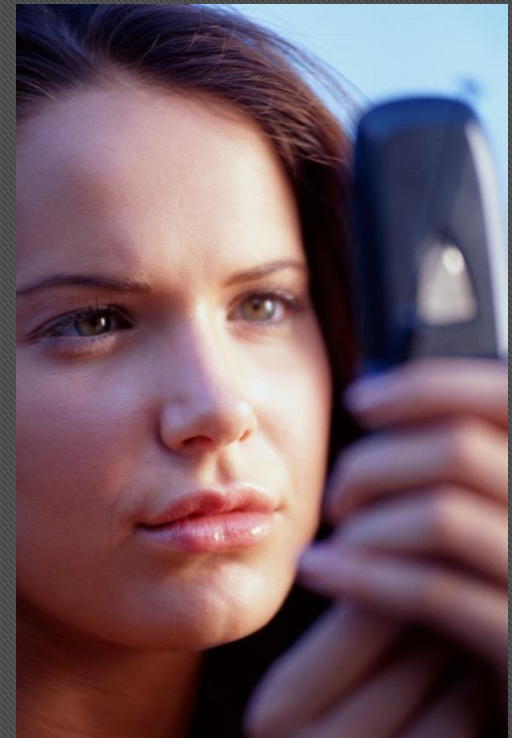
**1-800-992-6978**



# What to REPORT:

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- ▶ the name, age, and address of the endangered adult;
- ▶ the names and addresses of family members or other persons financially responsible for the endangered adult's care or other persons able to provide relevant information;
- ▶ the apparent nature and extent of the alleged neglect, battery, or exploitation;
- ▶ The name, address, and telephone number of the reporter and the basis of the reporter's knowledge;
- ▶ the name and address of the alleged offender; and
- ▶ ANY other relevant information regarding the circumstances of the endangered adult.



# Indiana's Witness Reporting Requirement

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IC 35-46-1-13(a)

A person who believes or has reason to believe that an endangered adult is the victim of battery, neglect or exploitation...and fails to report...commits a **Class B Misdemeanor**



# The Immunity Clause

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- ▶ **Indiana Code 12-10-3-11**
- ▶ Explicit protection is provided to persons making reports in good faith from retaliation (including employers) and immunity from both civil and criminal liabilities.





# National Legal Resources:

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- ▶ Elder Justice Coalition [www.elderjusticecoalition.org](http://www.elderjusticecoalition.org)
- ▶ American Bar Association Commission on Law and Aging
- ▶ National Association of Adult Protective Services Administrators
- ▶ National Committee for the Prevention of Elder Abuse



# National Center on Elder Abuse

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1201 15th Street, NW, Suite 350, Washington, DC  
20005-2800

Phone: (202) 898 -2586

Email: [NCEA@nasua.org](mailto:NCEA@nasua.org)

Website: [www.elderabusecenter.org](http://www.elderabusecenter.org)



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## For More Information:

- ▶ Kerry Hyatt Blomquist  
Legal Counsel  
Indiana Coalition Against Domestic Violence  
917-3685 ext 109  
[kblomquist@icadvinc.org](mailto:kblomquist@icadvinc.org)

Thank You!



“To care for those who once cared for us is one of the highest honors.”

▶ “Caregiving often calls us to lean into love we didn't know possible.”

— Tia Walker, The Inspired Caregiver: Finding Joy While Caring for Those You Love