

Twenty two years of prosecuting elder abuse: What I have learned then and now



VCPEA

VA Coalition for the Prevention of Elder Abuse

*"Breaking Barriers:
Empowering Older Virginians"*



Williamsburg, Virginia

May 30th, 2019

Presented by

richardrobinson@elderabuse.org.uk

Paul Greenwood,
Newly “retired” Deputy District Attorney,
San Diego County, California

How Criminals Steal \$37 Billion a Year from America's Elderly

Telephone pitchers, online scammers and even family members target the most vulnerable among us. And it's about to get worse.

[More stories by Nick Leiber](#) May 3, 2018, 1:00 AM PDT

STUDY

The MetLife Study of Elder Financial Abuse



The MetLife Study of **Elder Financial Abuse**

Crimes of Occasion, Desperation, and Predation Against
America's Elders

June 2011



MetLife
Mature Market
INSTITUTE

Key Findings

- The annual financial loss by victims of elder financial abuse is estimated to be at least \$2.9 billion dollars, a 12% increase from the \$2.6 billion estimated in 2008.

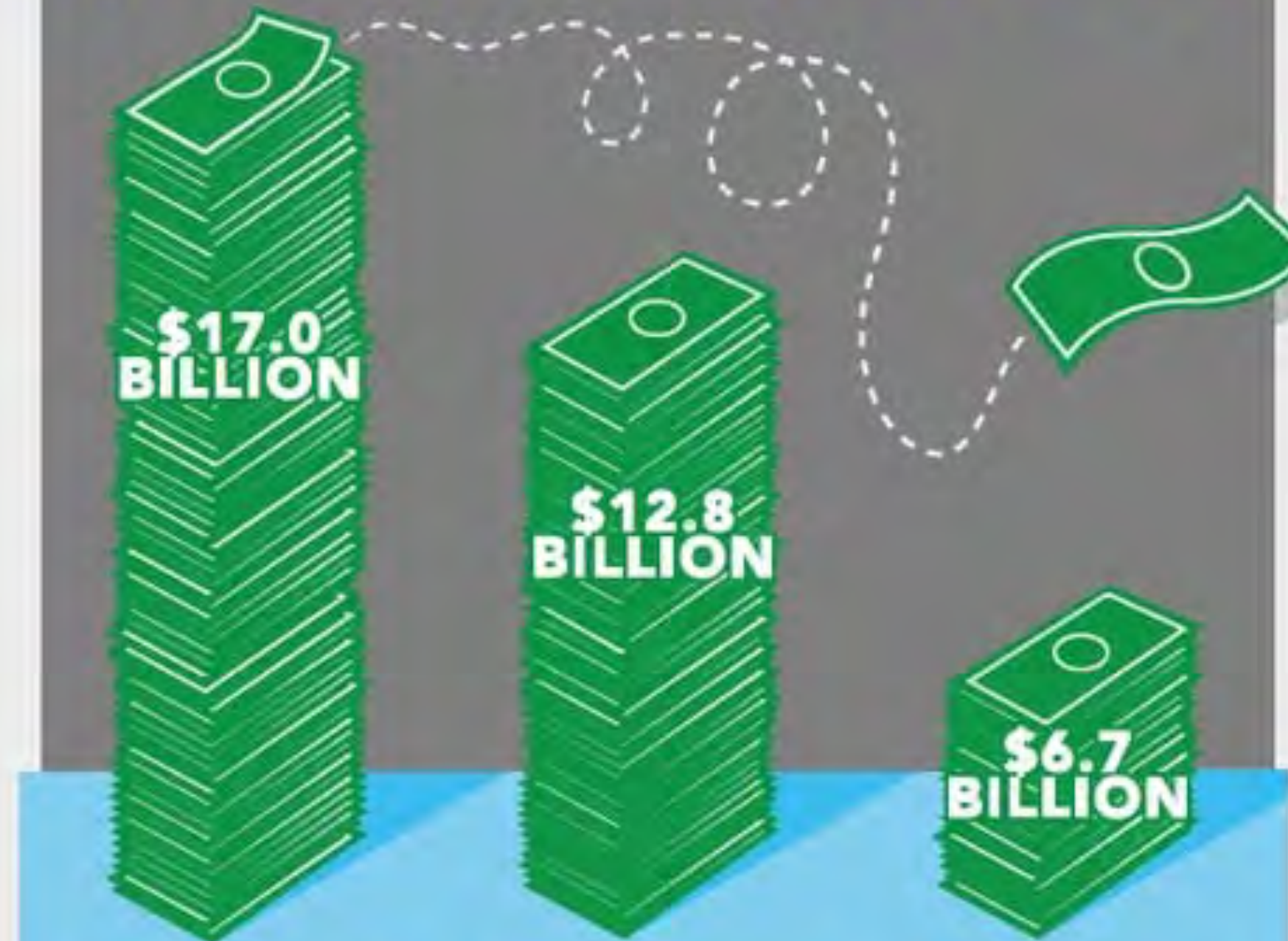
ELDER FINANCIAL ABUSE

findings from the
**True Link Report on
Elder Financial Abuse 2015**



WHAT IS THE COST?

\$36.5 BILLION



EXPLOITATION

When businesses, individuals, or charities use pressure tactics or misleading language to lead seniors into financial mistakes.



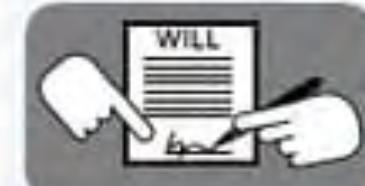
FRAUD

When criminals commit identity theft or con seniors into sending money or sharing personal information.



TRUST ABUSE

When family, friends, or paid helpers take advantage of a trusting relationship to get money from the senior.



My journey from UK to
San Diego





1260
DISTRICT
ATTORNEY

1-313-444-4444

Family Protection Division
Sex Crimes and Stalking Division

My Elder Abuse journey
began

January 1996

Even though California had
an elder abuse law in
existence since 1986

Penal Code section 368

Who are our victims under
the code?

Elders & dependent
adults

Elder = 65+

Dependent adult = 18 to
64 with mental or physical
limitations

PC 368

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

PC 368 continued

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

In Virginia...

Nothing in Virginia Code
except...

Incapacitated adults

"Incapacitated adult" means any person 18 years of age or older who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his well-being. Va. Code Ann. § 18.2-369

Virginia does not have an
age based criminal code
definition for a victim of
elder abuse

In D.C



You Are Here

- ↪ [D.C. Law Library](#)
- ↪ [Code of the District of Columbia](#)
- ↪ [Title 22. Criminal Offenses and Penalties.](#)
- ↪ [Chapter 9A. Criminal Abuse and Neglect of Vulnerable Adults.](#)
- ↪ § 22-932. Definitions.

Previous

[§ 22-931. Short title.](#)

Next

[§ 22-933. Criminal abuse of a vulnerable adult or elderly person.](#)

Publication Information

Current through June 9, 2018

Last codified D.C. Law:

Law 22-112 effective June 9, 2018

§ 22-932. Definitions.

For the purposes of [this chapter](#), the term:

(1) "Attorney General" means the Attorney General for the District of Columbia.

(2) "Court" means the Superior Court of the District of Columbia.

(3) "Elderly person" means a person who is 65 years of age or older.

(4) "United States Attorney" means the United States Attorney for the District of Columbia.

(5) "Vulnerable adult" means a person who is 18 years of age or older and has one or more physical or mental limitations that substantially impair the person's ability to independently provide for his or her daily needs or safeguard his or her person, property, or legal interests.



Code of the District of Columbia

You Are Here

- ↳ [D.C. Law Library](#)
- ↳ [Code of the District of Columbia](#)
- ↳ [Title 22. Criminal Offenses and](#)

§ 22-933. Criminal abuse of a vulnerable adult or elderly person.

Meanwhile back in San
Diego in January 1996

I had an office, a phone, a
computer but....

Despite having this law in
place for 10 years.....

No cases!

Just silence!



Break the Silence

Report Elder Abuse


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

So how do we go
about breaking
through that silence?



ALBERTA
ELDER ABUSE
AWARENESS
NETWORK

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[What is Elder Abuse](#)

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

A close-up photograph of two elderly hands clasped together on a wooden surface. The hands are wrinkled and aged, with visible veins and some discoloration. The person on the left is wearing a blue long-sleeved shirt, and the person on the right is wearing a dark blue long-sleeved shirt. The background is a rustic wooden table.

“ Elder abuse has been called the silent epidemic of our time.

It is a crime that too often operates in the shadows. ”

- Kansas Attorney General Derek Schmidt, NAAG President

I began a sharp learning
curve...

Elder Abuse is.....

- A Crime
- Going unpunished
- Predictable
- Affecting both urban & rural areas
- Where child abuse & DV were 30 years ago
- Escalating

The aging of America

- Between 1950 & 2000, the total population increased by 87%
- Age 65+ - by 188%
- 85+ - by 635%
- By 2030 - 65+ will triple to over 70 million

Every day in the USA, the
number of people turning
65 years old is.....

10,000

Demographics of living longer

- By 2010 there were 114,000 Americans 100 years old +
- By 2020, there will be 241,000

By 2035 there will be more
65+ than children in
USA... for first time

And in Virginia...

Virginia's Aging Population

People are living longer. Birth rates are declining. By 2040, nearly one in every five Virginian will be older than 65.



Pick a year to see actual/projected population of people over 65

1990	2000	2010	2020	2030	2040
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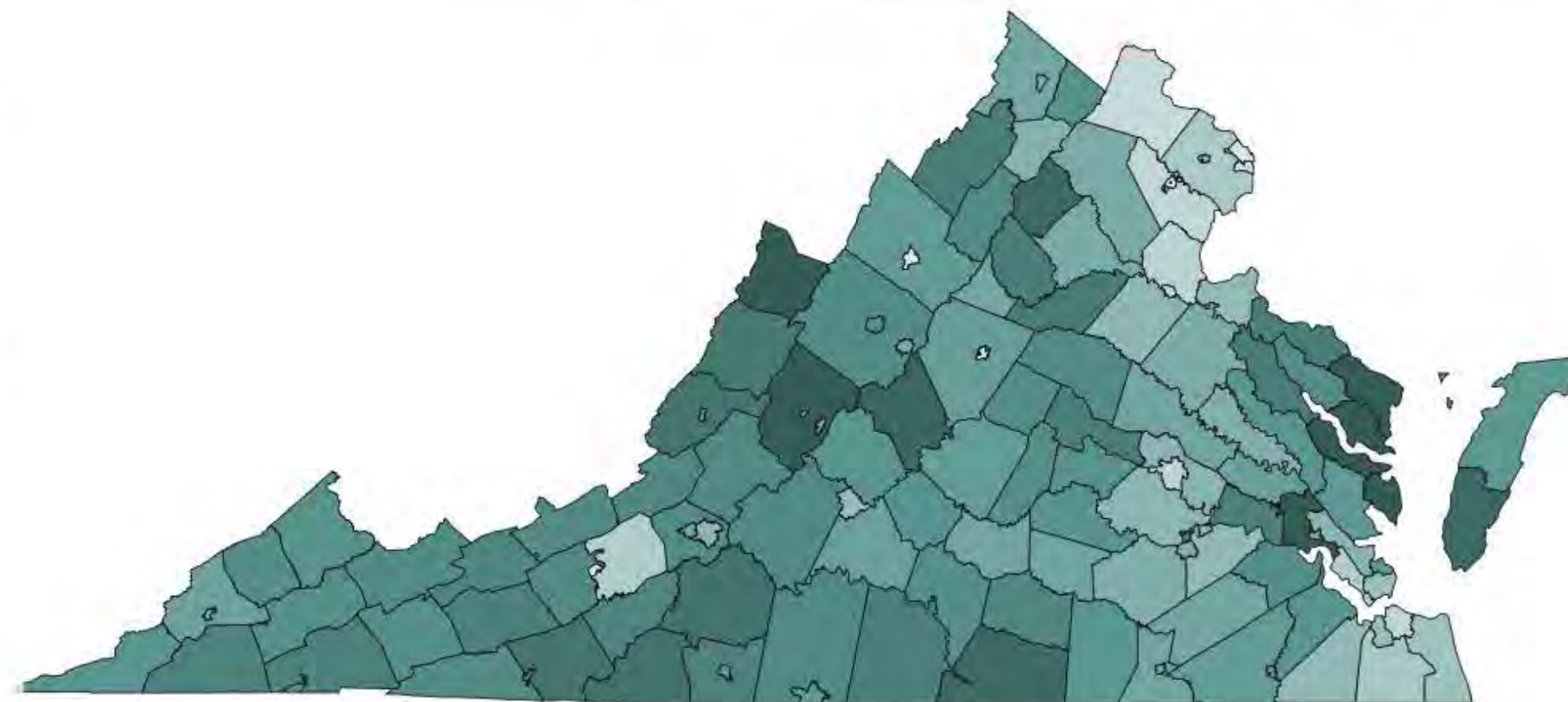
2000

Percent of Population Over 65 Years

5% or Less  30% or More

Find a Locality

Based on
Age Projection for
2020
Population Over 65 for
Virginia
will be
15.93%

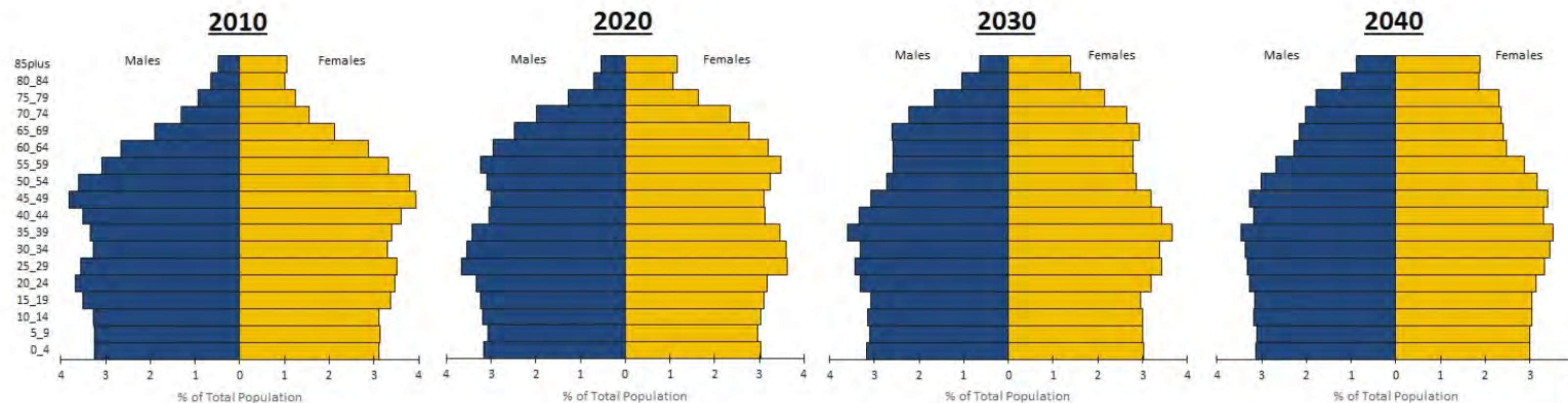


What is the biggest demographic trend in Virginia?

By Hamilton Lombard On December 28, 2017.

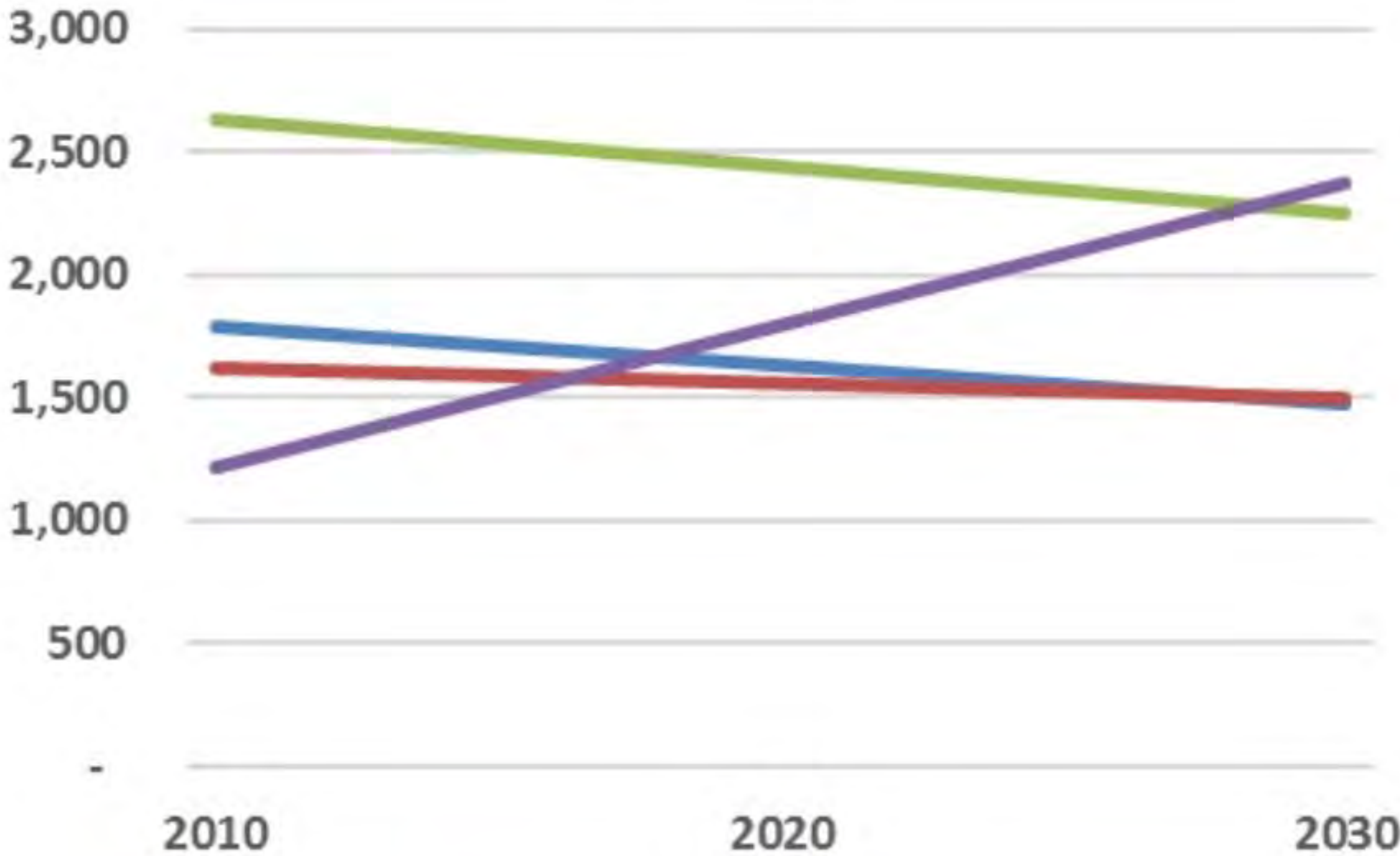
Every year the Demographics Research Group is asked to give presentations on Virginia's demographic trends, and this year, as is true every year, the demographic trends we explored depended on our audience's area of interest — school enrollment change for the Board of Education, population growth trends for the House Appropriations Committee, or population projections for the Virginia Planning Association. However, behind all of these trends, there was one significant driving factor: aging. The aging of Baby Boomers is not only swelling the 65+ population, but is also having a ripple effect across all age groups, slowing growth in the working-age population and often causing decline in the school-age population.

The growth in Virginia's population over age 65 is a widely known trend and is commonly recognized as the most significant demographic change currently taking place across the U.S. But the expected rate of growth in the 65+ population is still stunning. In just 20 years (between 2010 and 2030), Virginia's population age 65 and older is expected to jump from 976,937 to 1,803,404, contributing to the majority of Virginia's population growth during the period. Outside of Northern Virginia, 85 percent of the projected population growth is predicted to come from those 65 and older. Benjamin Franklin famously said "in this world nothing can be said to be certain, except death and taxes." Barring a catastrophic spike in deaths, the aging of Virginia's population is also a certainty.



POPULATION PYRAMIDS FOR VIRGINIA

Charles City County Age Projection



Under 25 25 to 45 45 to 65 Over 65

And yet, despite this
obvious escalation
of the “aging”
population...



ACLgov ✓

@ACLgov

 **Follow**

Despite great progress, funding for [#ElderJustice](#) is 1% of funding for child and family welfare. [#EJCC](#)

ELDER ABUSE IS EXPLODING

- Fastest growing age group
- No known cure for dementia etc.
- Victims often do not report
- Third fastest growth job is home care
- Minimal background checks
- High temptation, low risk factors

UNDERSTANDING THE DYNAMICS

- Fears of many seniors
- Leads to underreporting
- Feelings of shame
- Concern that exposure will lead to loss of independence
- Sometimes accompanied by threats from perpetrator

Faced with the problem of
silence, the demographics
and the various dynamics
about which I was
learning...

I needed to quickly change
my role as a prosecutor

Prosecution: Reactive or
proactive?

Networking

EPC

Elder Protection Council



Tuesday, May 1st, 2018

9:00AM-11:00AM

**Raise Awareness.
Enhance Prevention.
Improve Protection.**

County of San Diego Operations Center, Kearny Mesa
5530 Overland Avenue, San Diego, CA 92123



Building 5530
Training Room 124



Pam Smith
Senior Advisor, Live Well San Diego
Health & Human Services Agency

For more information &
RSVP contact:
Linda.moy@sdcca.org

Start local...think global..

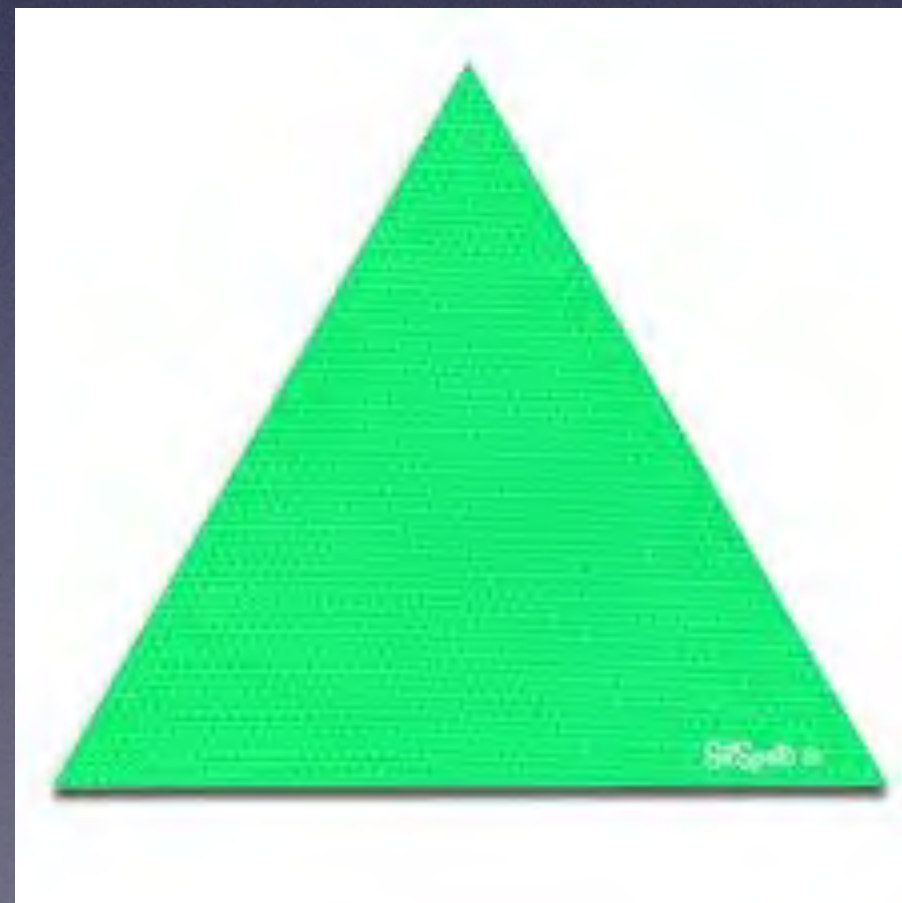
The importance of the 3 Cs
in building a multi
disciplinary team approach

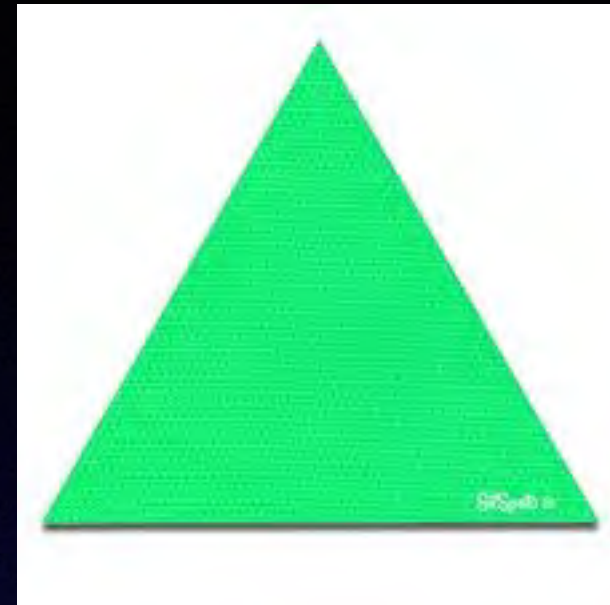
Collaboration

Cooperation

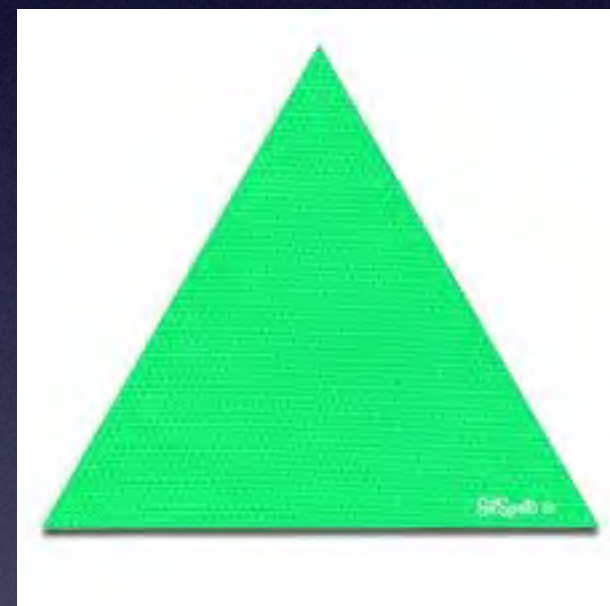
Communication

I began with a key
triangle concept...

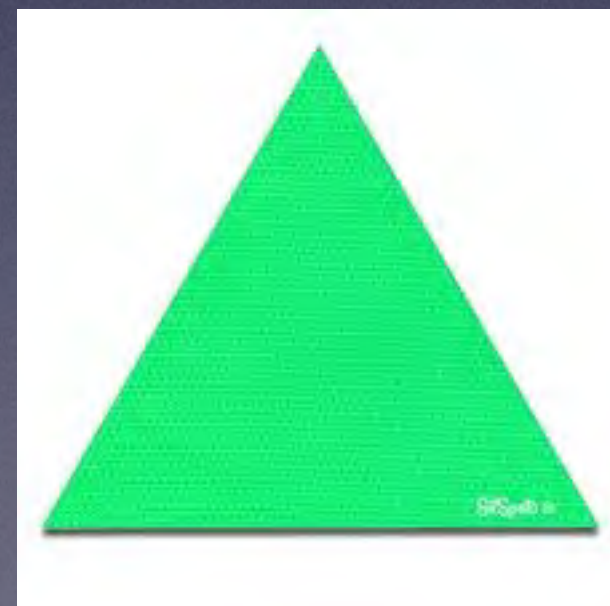




Social services - APS,
Ombudsman & Public
Guardian

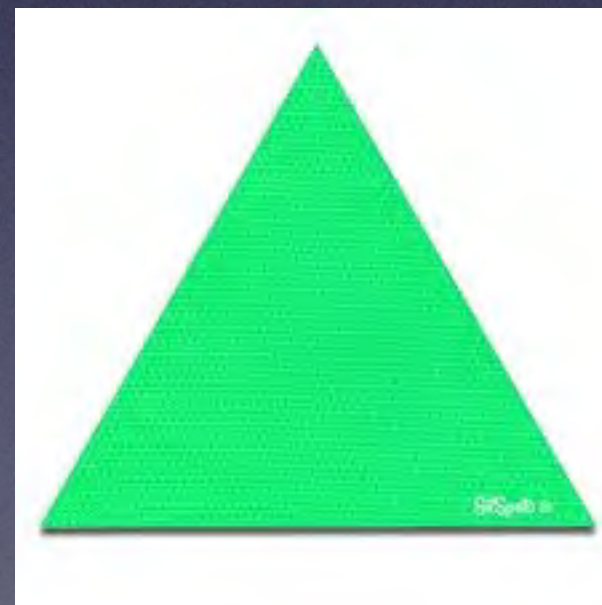


Law Enforcement



Prosecutors

Social Services...



APS/ Ombudsman

Creating/promoting referral line:

- Every County must have a reporting line
- Billboards
- Posters
- Radio and TV PSA's
- # of calls WILL increase



Silence isn't golden.

Help stop elder abuse.

1 (800) 510-2020

& INDEPENDENCE SERVICES
SAN DIEGO ■ HEALTH AND HUMAN SERVICES AGENCY



**The golden years make some people
see red.**

**Help stop physical
of our elderly**

1 (800) 510-2



AGING & INDEPENDENCE SERVICES
COUNTY OF SAN DIEGO ■ HEALTH AND HUMAN SERVICES AGENCY




**golden years make some people
green with envy**

**Help stop financial abuse
of our elderly.**

1 (800) 510-2020

G & INDEPENDENCE SERVICES
SAN DIEGO ■ HEALTH AND HUMAN SERVICES AGENCY



**Golden years make some
people blue.**

**Elder neglect is abuse.
Help stop it.**

1 (800) 510-2020

& INDEPENDENCE SERVICES
SAN DIEGO ■ HEALTH AND HUMAN SERVICES AGENCY

In Virginia..

We stand for dignity. We will not stand for elder abuse.



The above was completed for the National Center on Elder Abuse situated at Keck School of Medicine at the University of Southern California and is supported in part by a grant #90AB0003-01-01) from the Administration on Aging, U.S. Department of Health and Human Services (DHHS).

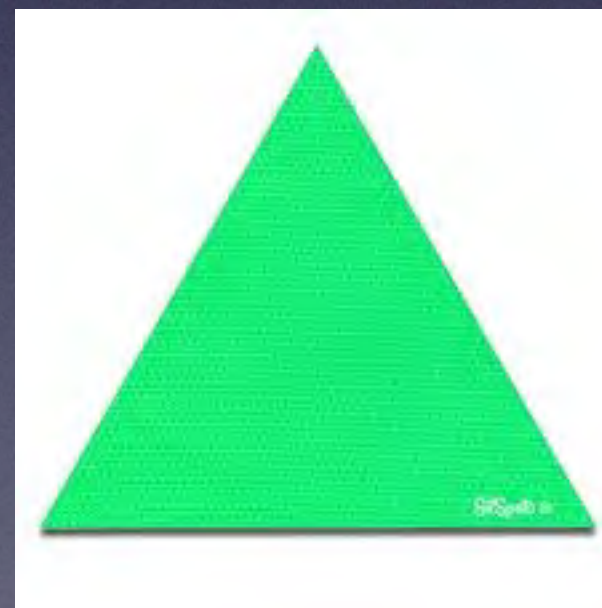
**Remember, abuse hurts at any age!
Help stop elder and vulnerable adult
abuse, neglect, and exploitation.**

Please report suspected abuse, neglect,
and exploitation to the toll-free, 24-
hour APS hotline at:

1-888-832-3858

**or to your local department of social
services.**

Local law enforcement..



Local law enforcement..

For the first 7 months I did not prosecute any elder abuse case; instead I went around our county talking with law enforcement....

What did I learn?

All victims deserve our utmost
response

- Sadly, some victims are overlooked, ignored, disbelieved, or simply are abandoned



I discovered that law enforcement -
through no fault of their own - were
falling into common misconceptions...

I have learned that to bring elder
abuse out of the shadows, we
need to recognize what is standing
in our way...

Myth #1

- Elderly people make terrible witnesses

Most common answer...
forgetfulness

AVOID STEREOTYPING OF SENIORS

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



Myth # 2

- If elderly victim refuses to provide information, there is nothing that can be done

- We can still build a case by talking to other key witnesses
- Start on the outside and work your way to the middle
- Let the DA figure out a way to break through victim's wall of silence

LESSONS LEARNED FROM DOMESTIC VIOLENCE

- Self-determination is not the answer

“Victim declines
prosecution”

Hendersonville police officers always respond to calls, treating potential victims with compassion and dignity, Chief Herbert Blake said.

"We, the police, charge when the charges are there to be made and (if) we have a willing victim," he said.

the victim either knew the offender or was taken advantage of by “cheating someone the old-fashioned way,” said Sheriff David Mahoney. These cases often include obtaining property by false pretense, or credit card or ATM fraud.

Out of those 26 cases, suspects were arrested in 12. In three cases, the victim did not press charges, five were determined to be unfounded, and six remain under investigation, Mahoney said.

And in a recent Rhode
Island newspaper article..

Elder-abuse victims are often reluctant to press charges

By Jack Brook, Rebecca Ellis and Katrina Northrop / Special to The Journal

Posted Aug 24, 2018 at 8:52 PM

Updated Aug 28, 2018 at 5:53 PM

Victims' fear of reprisals, dependence on their abusers for their daily care, and reluctance to send a loved one to prison make elder-abuse crimes notoriously difficult to prosecute, authorities say.

Why self-determination is a problem

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

Profile of the physical abuser:

- Son in his late 30's to late 50's
- Living at home with Mom
- Divorced/ returns or single and unmotivated or just out of jail
- Lazy and unemployed
- Drugs, alcohol or gambling
- Feeds habit off Mom
- Sometimes history of mental illness

Sadly, I have learned much
about elder abuse from
prosecuting 10+ homicides
over the past 22 years

Myth # 3

- If elderly victim gives the money voluntarily, it is not a crime

The “it’s a civil matter”
mindset is pervasive

But things are not always
how they first appear

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

Myth # 4

- A Power of Attorney does not provide a license to steal and plunder

A family member who is
the suspect - accelerated
inheritance is not a good
defense!

Myth #5

- If victim is deceased before we discover the theft, we cannot prosecute