Lori Smetanka JD
Executive Director, National Consumer Voice for Quality Long-Term Care

Elder Justice Coordinating Council – December 3, 2019
Increased Federal Involvement in Addressing Elder Abuse, Neglect, and Exploitation

Good morning and thank you for inviting me to be here today. The National Consumer Voice for Quality Long-Term Care has been advocating for individuals receiving long-term care and services for nearly 45 years. We advocate for policies that support quality long-term care; empower and educate consumers; and equip advocates with the information and resources they need for their work. The Consumer Voice operates the National Long-Term Care Ombudsman Resource Center, funded by a grant from the Administration for Community Living, through which we provide technical assistance, support, and training to state and local long-term care ombudsmen.

We appreciate the important work of the Elder Justice Coordinating Council and the work that has been done by the participating agencies to address elder abuse, neglect, and exploitation.

Abuse of elders continues to be under-reported and under-investigated, for individuals living in community-based settings as well as those living in congregate care settings, such as nursing homes and assisted living facilities. Increased efforts to prevent, investigate, and prosecute abuse, as well as to support victims, remain necessary, as concerns about abuse, neglect, and exploitation of older adults continue to rise.

At the Consumer Voice we regularly hear from long-term care consumers and their families, as well as ombudsmen and other advocates, stories about abuse, neglect, and exploitation that continue to both shock and sadden us all. A sample of cases that have recently been shared with us:

- A resident was beaten in the elevator of her nursing home by another resident who had psychiatric issues and was not being appropriately monitored by staff.

- An elderly woman receiving care in her home had her opioid pain medications stolen by her home health nurse who replaced them with a variety of other pills. Other caregivers unknowingly gave her the substituted pills. She suffered in excruciating
pain without her pain medication until the family became suspicious of the nurse and sought help.

- A contract construction worker was caught performing a sexual act on a resident, a woman living with dementia, in her assisted living apartment. The incident was not reported to the police or to the family for several days, during which time the worker continued his job in the assisted living facility and was witnessed on the resident’s floor.

- A male resident with dementia was given antipsychotic medication for the purpose of sedating him for the convenience of staff. He was exhibiting behaviors that staff did not like. The FDA has issued a Black Box warning on the use of antipsychotic drugs in elderly dementia patients, putting them at risk of serious illness or death. The resident subsequently died.

We are not the only ones to hear these stories. Cases just like these are regularly told in the news, referenced in studies and reports, and shared at Congressional hearings. A recent study from the General Accounting Office (GAO) indicates that abuse deficiencies in nursing homes more than doubled between 2013 and 2017 and were categorized at higher levels of harm. Investigative reporting by CNN (Sick, Dying and Raped in America’s Nursing Homes, 2017) and the Atlantic Journal Constitution (Unprotected: Broken Promises in Georgia’s Senior Care Industry, 2019), among others, highlight disturbing incidences of abuse against residents.

With the aging of our population nationally, the potential for abuse and neglect of elders is increasing. 10,000 baby boomers turn 65 each day, nearly 70% of those individuals will need long-term care and services in their lifetime. And 1 in 14 people over age 65 will develop dementia, a likelihood that increases with age. As a society, it is incumbent upon us to intensify our efforts to combat elder abuse and neglect at all levels and in all settings, as well as support and seek justice for those who are victimized.

In each of the cases I mentioned earlier, action was taken to hold accountable those responsible for the abuse that occurred. But we know that is frequently the exception, rather than the rule. Too often, justice for the victim is never obtained, and individuals committing these acts may go on to abuse others.

Progress, however, is being made. With the leadership of the agencies represented here on the Council and collaborations between national, state, and local partners and the private sector, we are seeing important strides forward to address elder abuse.

- In Georgia, the long-term care ombudsman, adult protective services, state and local law enforcement and prosecutors and other partners have banded together to stop benefits trafficking of vulnerable adults often living in board and care homes.
• A working group in New York that includes adult protective services, the attorney general’s office, law enforcement, and the long-term care ombudsman program is addressing systemic issues and identifying solutions to discharges of nursing home residents due to nonpayment where family members were receiving the resident’s income but not paying their nursing home bills.

• In Kentucky, multi-agency regional groups made up of agencies and programs with responsibility for investigating and combating abuse and neglect of long-term care residents meet quarterly to identify current trends and systemic issues and identify solutions.

• At the Consumer Voice, we are working in partnership with colleagues such as the Elder Justice Coalition, coordinated by Mr. Blancato, to advocate for policies that would promote elder justice; and have been working with national partners and sister resource centers to raise awareness of, and provide education and resources to, consumers and advocates around elder abuse and related issues.

More must be done. To prevent even one more elder from being the victim of abuse, neglect, or exploitation, we recommend:

• Improving data collection and reporting

Support efforts for enhanced data collection and sharing in order to better understand the scope of the problem of elder abuse and determine effective best practices for allocation resources. The recently implemented National Adult Maltreatment Reporting System for Adult Protective Services, and revisions to the National Ombudsman Reporting System are positive steps forward in collecting much needed data on this issue.

Additional data collection should also occur through CMS, including a GAO recommendation that abuse and perpetrator type be submitted by state survey agencies in CMS’s databases for deficiency, complaint, and facility-reported incident data, and that the agency systematically assess trends in these data.

• Promoting greater collaboration among federal partner agencies and programs.

Bring your sister agencies and departments that have responsibility for programs or services for elders to the table to engage them in efforts to adequately investigate and respond to allegations of elder abuse and enforce requirements that exist.

Raise the visibility of community-based efforts, such as Elder Justice Taskforces and Multi-Disciplinary Teams, and work to expand to all communities nationwide.
Encouraging and supporting policies that improve the reporting of abuse and suspicions of crimes to the agencies with authority/responsibility to investigate and hold accountable those who fail to report.

- Investing additional resources in (or requesting additional resources for) training and support around investigation and prosecution.

Expand and increase the availability of training opportunities for prosecutors, law enforcement officers, and judges on issues related to elder abuse including identification and investigation of abuse, neglect, and exploitation, as well as related issues such as dementia, capacity, guardianship, supported decision-making, and trauma-informed care.

Include, in the training, multi-disciplinary partners such as long-term care facility surveyors, long-term care ombudsmen, adult protective services, and others who have a role in investigating abuse or advocating for residents in long-term care facilities.

Provide support and mentoring for prosecutors around pursuing cases of abuse, neglect and exploitation, particularly where the victim has dementia or lacks capacity.

- Ensuring victim supportive services are extended to individuals who reside in long-term care facilities. Our experience is that these services are not as widely available to victims of abuse in nursing homes or assisted living as for those living in community settings.

- Raising public awareness and understanding of elder abuse, neglect, and exploitation by establishing a date certain for launching the broad-based public awareness campaign recommended by this Council.

Include Council partners and other stakeholders in a coordinated effort that draws attention to this issue and put awareness of elder abuse on par with child abuse and domestic violence. Offer tips and strategies for preventing abuse, as well as resources for getting help for those who have been victimized.

The 8 Recommendations for Increased Federal Involvement in Addressing Elder Abuse, Neglect and Exploitation adopted by this Council set an important framework for moving the needle forward in this arena. Each of the recommendations above fits within at least one of the recommended areas identified by the Council.

The Consumer Voice thanks the Elder Justice Coordinating Council for the opportunity to discuss these important issues with you today.