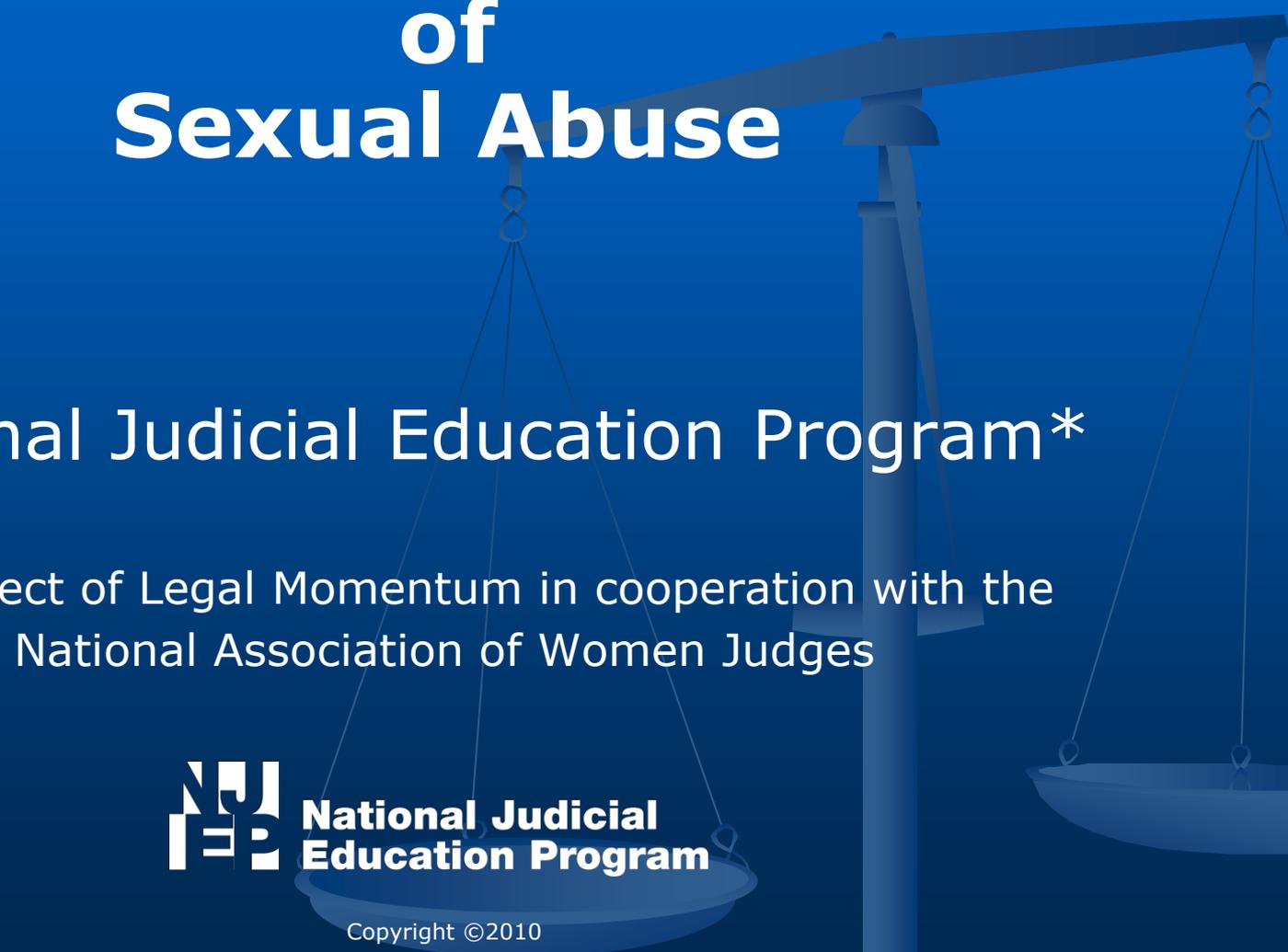


Elder Victims of Sexual Abuse



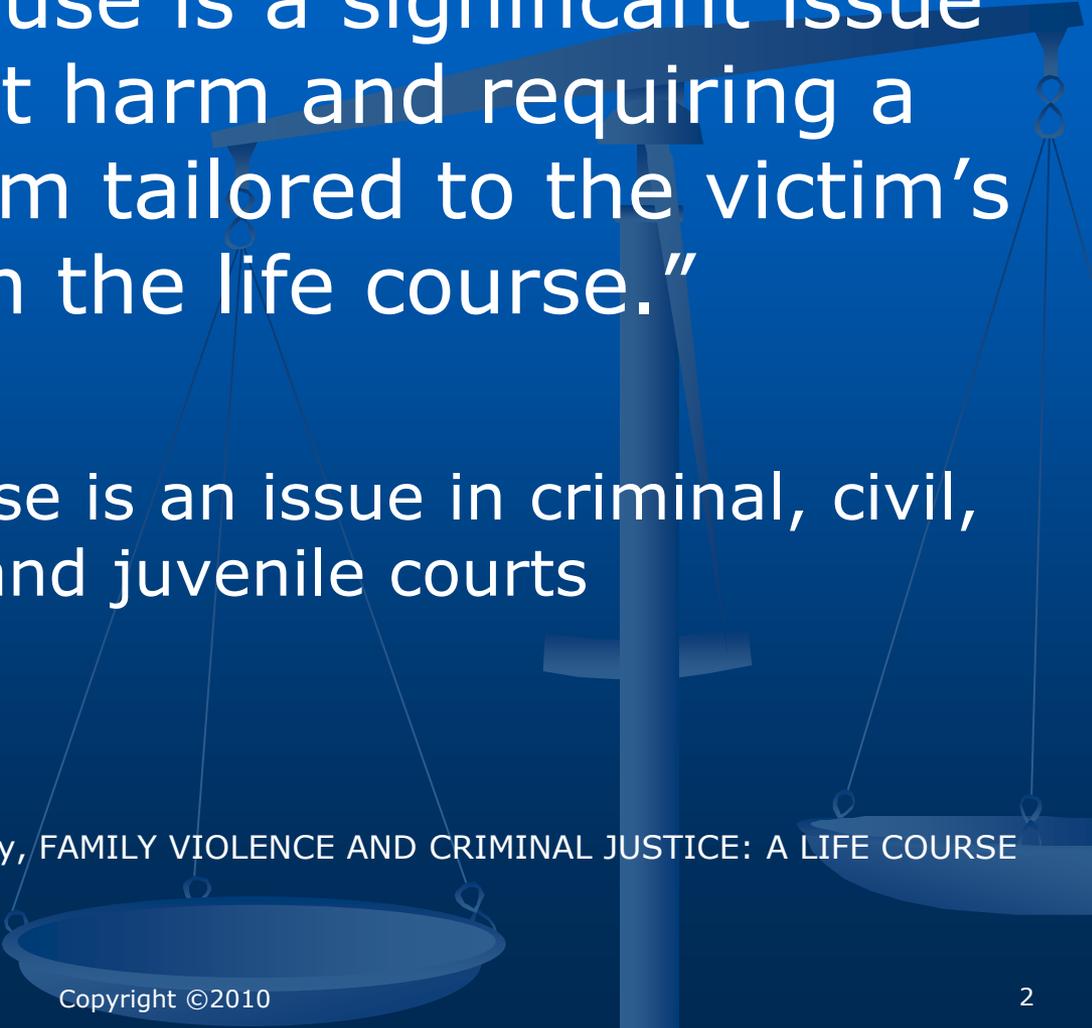
National Judicial Education Program*

*A Project of Legal Momentum in cooperation with the
National Association of Women Judges



**National Judicial
Education Program**

Elder Sexual Abuse



“Elder sexual abuse is a significant issue causing great harm and requiring a response system tailored to the victim’s stage in the life course.”

- Elder sexual abuse is an issue in criminal, civil, family, probate and juvenile courts

Source: Brian K. Payne & Randy Gainey, FAMILY VIOLENCE AND CRIMINAL JUSTICE: A LIFE COURSE APPROACH (2005).

Case Examples

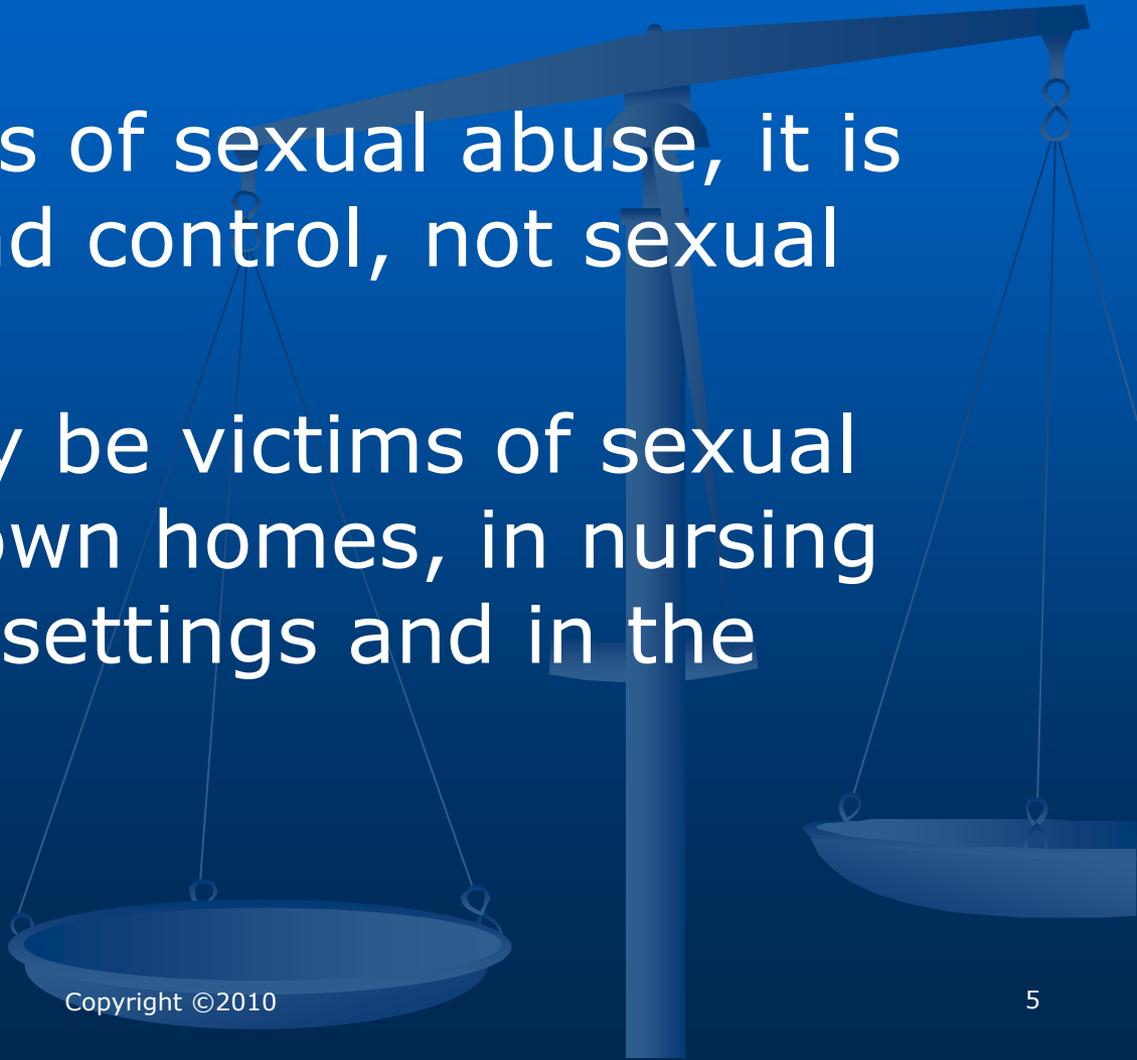
- An adult son living with his elderly mother forces her to watch pornography with him
- A nurse aide at a nursing home places the hand of an 85-year-old female Alzheimer's patient on his crotch and rubs himself with it
- A registered sex offender living in a long-term care facility rapes another resident
- After breaking into a home, the burglar rapes the elderly woman he finds living there

Elder Sexual Abuse Defined

- The coercing of an older person through force, trickery, threats, or other means into unwanted sexual activity
- Sexual contact with elders who are unable to grant informed consent
- Sexual contact between service providers and their elderly counterparts
- Contact and non-contact offenses including touching, oral, vaginal and anal rape, coerced nudity, sexually explicit photography, coerced viewing of pornography and other forms of sexual abuse

Elder Sexual Abuse

- Elder sexual abuse is a distinct form of victimization
- As with all types of sexual abuse, it is about power and control, not sexual desire
- Adults 60+ may be victims of sexual abuse in their own homes, in nursing and residential settings and in the community

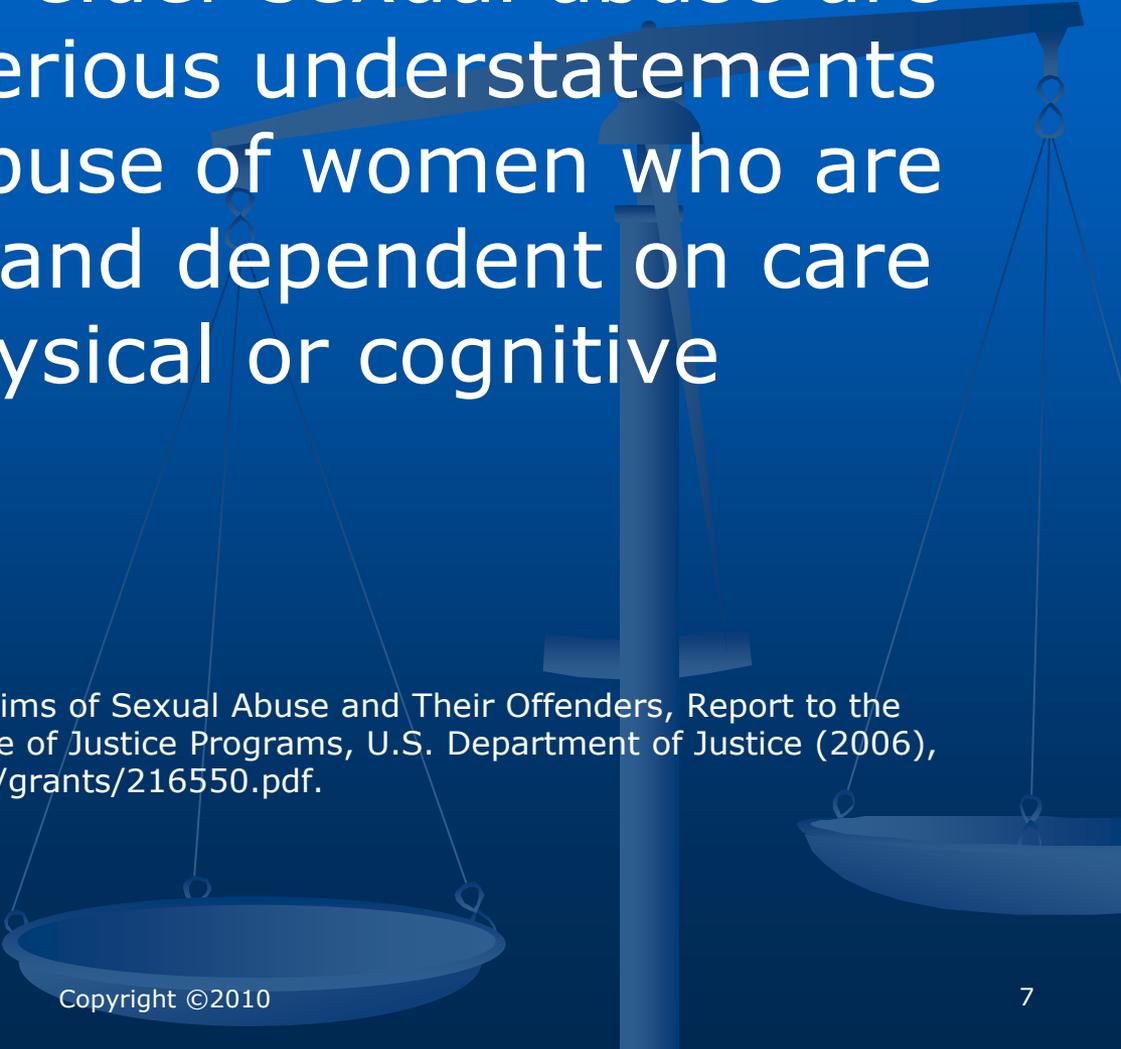


A Vulnerable Population

- Reduced cognitive or emotional functioning may render older people more susceptible to sexual abuse
- Cognitively impaired and/or developmentally disabled elders are at high risk
- Sexual predators seek out victims who are easily overpowered or manipulated, unlikely to report, or unlikely to be deemed credible if they do report

Sources: Holly Ramsey-Klawnsnik et al., Sexual Predators who Target Elders: Findings from the First National Study of Sexual Abuse in Care Facilities, 20 JOURNAL OF ELDER ABUSE AND NEGLECT 353 (2008); Karla Vierthaler, In Focus: Speaking Out on a Silent Crime, Elder Sexual Abuse: The Dynamics of Problem and Community-Based Solutions, National Center on Elder Abuse, Newsletter, Vol. 6, No. 7, April 2004. pg 1.

Prevalence Data



“All statistics on elder sexual abuse are believed to be serious understatements of this type of abuse of women who are vulnerable, frail and dependent on care as a result of physical or cognitive disability.”

Source: Ann Burgess, *Elderly Victims of Sexual Abuse and Their Offenders*, Report to the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice (2006), <http://www.ncjrs.gov/pdffile1/nij/grants/216550.pdf>.

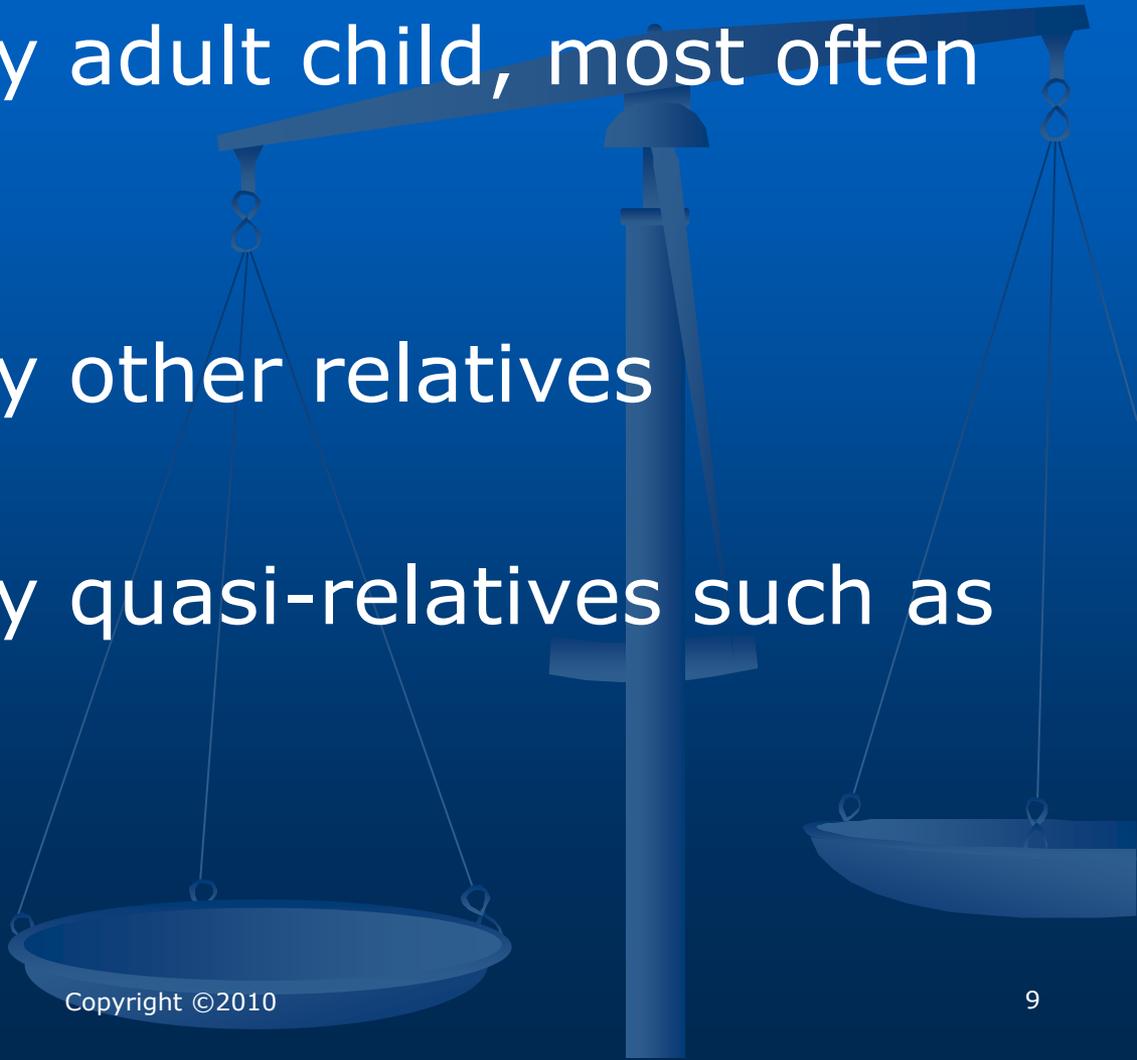
Types of Elder Sexual Abuse

- Incestuous abuse
- Marital or partner sexual abuse
- Resident-to-resident sexual abuse in residential facilities
- Known Assailant
- Sexual abuse by unrelated caregivers
- Stranger Assailant

Source: Holly Ramsey-Klawnsnik, Elder Sexual Abuse within the Family, 15 J. OF ELDER ABUSE & NEGLECT 43 (2003).

Types of Incestuous Elder Sexual Abuse

- Sexual abuse by adult child, most often an adult son
- Sexual abuse by other relatives
- Sexual abuse by quasi-relatives such as in-laws

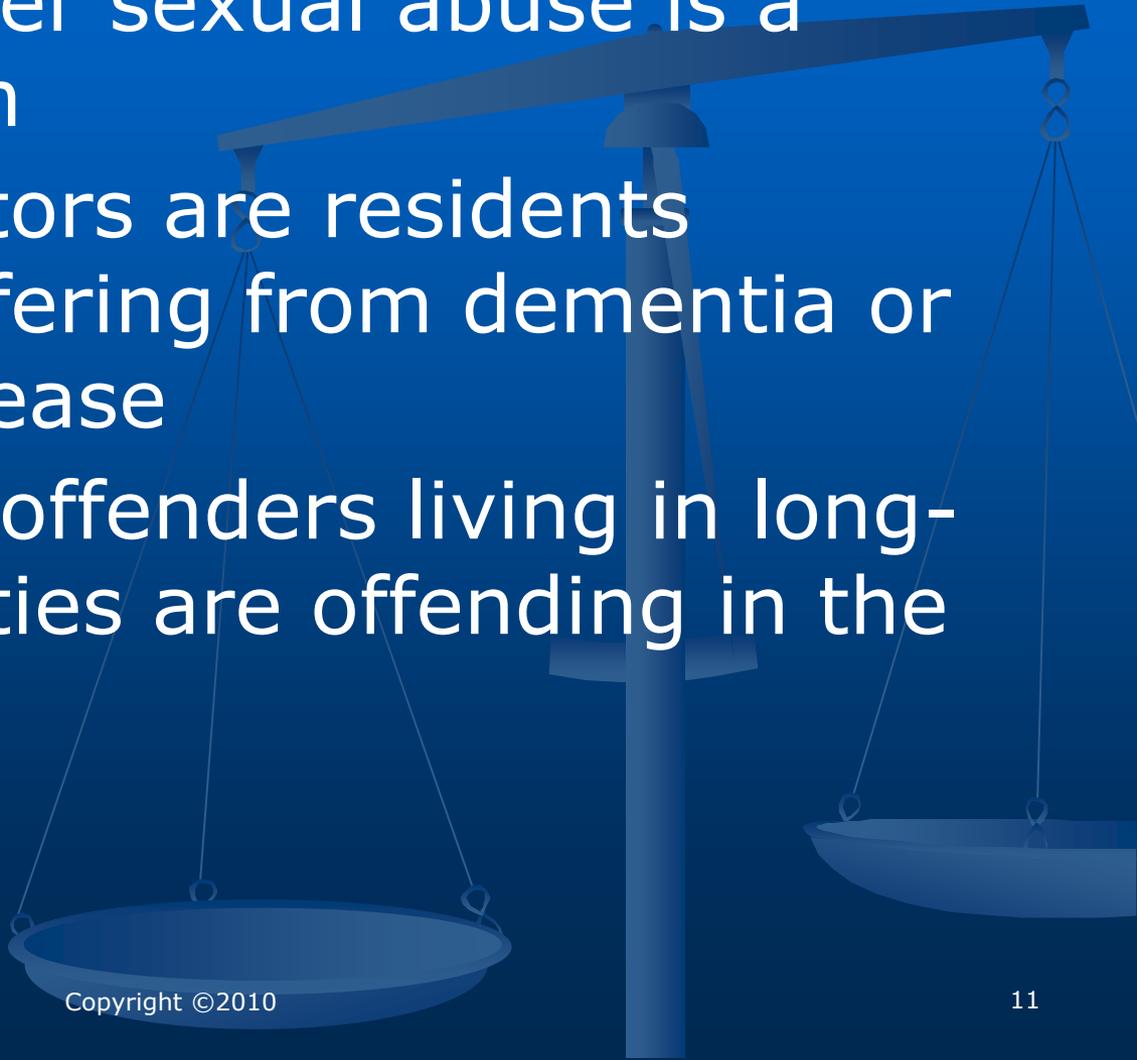


Patterns of Marital/Intimate Partner Elder Sexual Abuse

- Recurring sexual abuse by a husband within a long-term marriage
- Recent onset of sexual abuse by husband within a long-term marriage
- Sexual abuse by a husband within a new marriage

Resident-on-Resident Sexual Abuse

- This type of elder sexual abuse is a serious problem
- Some perpetrators are residents themselves suffering from dementia or Alzheimer's disease
- Registered sex offenders living in long-term care facilities are offending in the facility



Resident-on-Resident Consensual Sex

Cases of consensual sexual activity between nursing home residents or in other long-term care settings may be misperceived as sexual abuse. The following questions can help determine whether sex is consensual:

- Is the client aware of who is initiating the sex?
- Is behavior consistent with formerly held values and beliefs?
- Does the client have the capacity to say no?

Source: Brian K. Payne, Understanding Elder Sexual Abuse and the Criminal Justice System's Response: Comparisons to Elder Physical Abuse. 27 Justice Quarterly (2009)

Stranger Elder Sexual Assaults and Murders

- A high number of burglaries of elder female victims involve a sexual assault
- Between 1976 and 1999, 92% of murders of elderly women involved rape of the victim

Source: Mark Safanik et al, Sexual Homicides of Elderly Victims, 17 J. OF INTERPERSONAL VIOLENCE 500 (2002). Citing FBI Uniform Crime Reports.

Types of Offenses

Offenses may be “hands-on” or “hands-off” but all involve power and control elements.

- X-ray technician put his tongue into the mouth of a 93-year-old nursing home resident and touched her breast during a broken hip x-ray
- Defendant agitated a patient with dementia at least nine times by telling the man that he was having sex with his own daughter

Sources: Brian K. Payne, Understanding Elder Sexual Abuse and the Criminal Justice System's Response: Comparisons to Elder Physical Abuse. 27 Justice Quarterly 206 (2009). Cases drawn from Medical Fraud Reports.

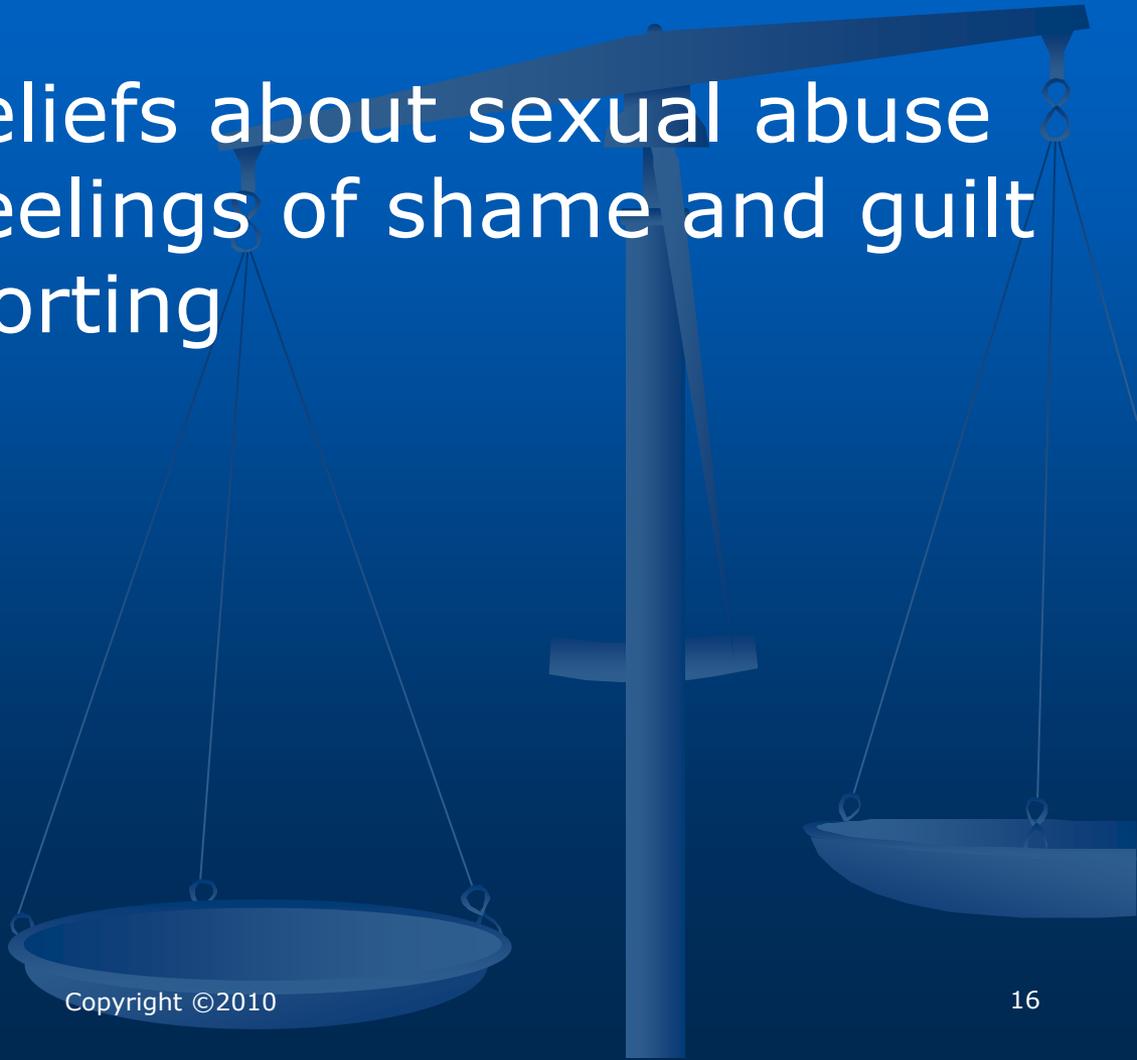
In a study of 127 nursing home sexual abuse cases:

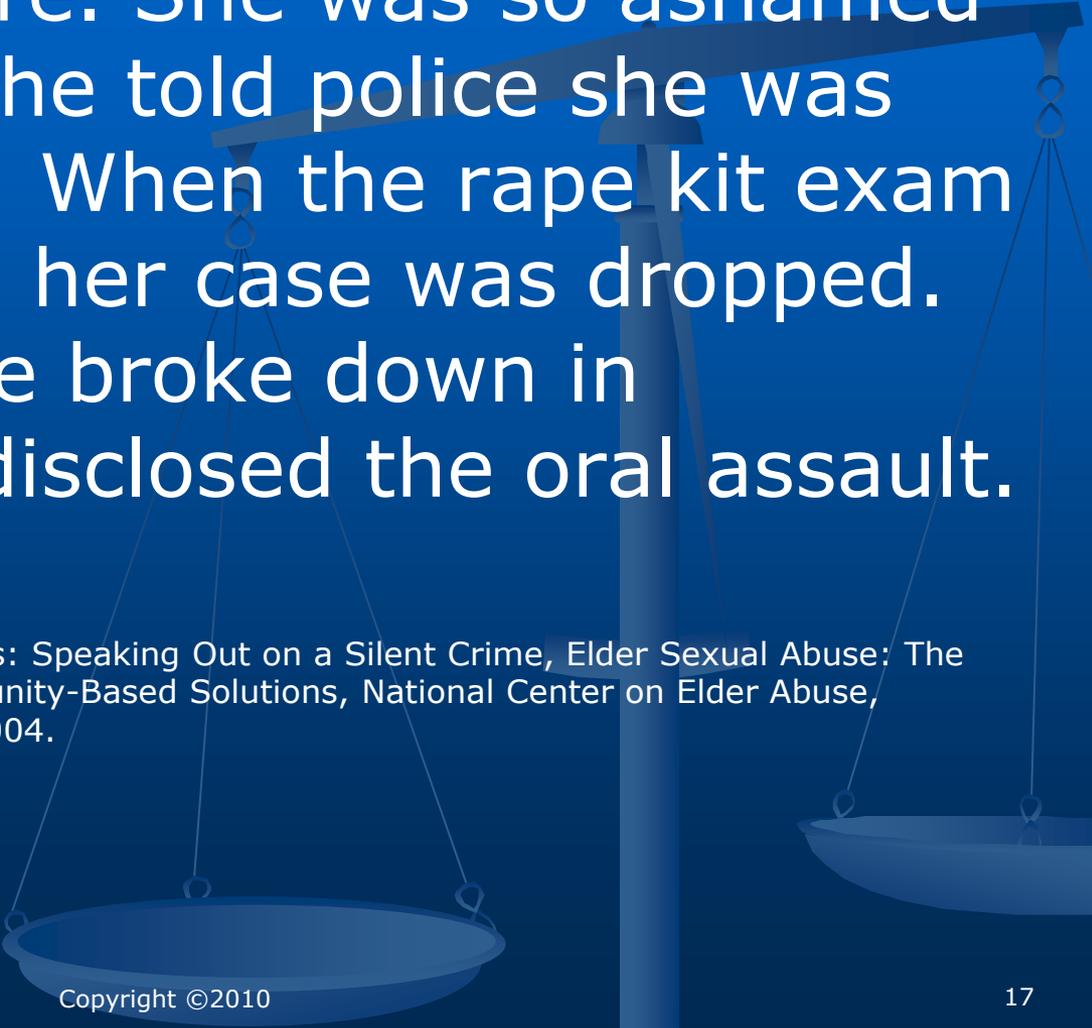
- One third of offenders committed hands-on and genital offenses either against multiple victims, or the same victim multiple times
- Cognitively impaired patients were most often targeted
- Witnesses were essential to reporting when victims were cognitively impaired

Sources: Holly Ramsey-Klawnsnik et al., Sexual Predators who Target Elders: Findings from the First National Study of Sexual Abuse in Care Facilities, 20 JOURNAL OF ELDER ABUSE AND NEGLECT 353 (2008); Brian K. Payne, Understanding Elder Sexual Abuse and the Criminal Justice System's Response: Comparisons to Elder Physical Abuse. 27 Justice Quarterly 206 (2009).

How is Sexual Abuse Different for Elders?

- Generational beliefs about sexual abuse may increase feelings of shame and guilt and reduce reporting





A stranger forced a 62 year old woman to give him oral sex, something she had never done before. She was so ashamed of this act that she told police she was vaginally raped. When the rape kit exam showed nothing, her case was dropped. Months later, she broke down in counseling and disclosed the oral assault.

Source: Karla Vierthaler, In Focus: Speaking Out on a Silent Crime, Elder Sexual Abuse: The Dynamics of Problem and Community-Based Solutions, National Center on Elder Abuse, Newsletter, Vol. 6, No. 7, April 2004.

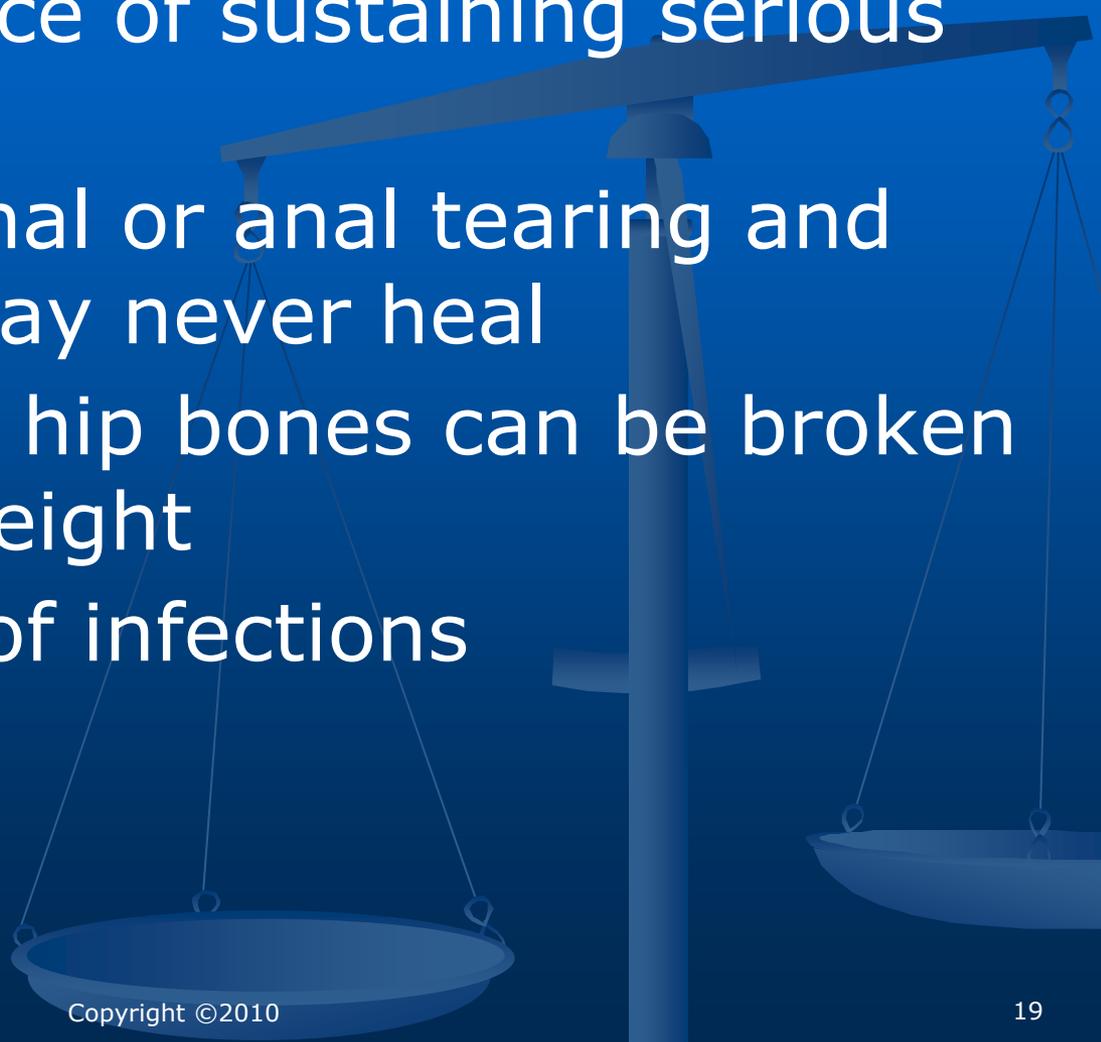
How is Sexual Abuse Different for Elders? (cont'd)

- Lack of a strong support system
- Abuse may exacerbate an existing illness
- Longer recovery time dealing with abuse

Source: Karla Vierthaler, In Focus: Speaking Out on a Silent Crime, Elder Sexual Abuse: The Dynamics of Problem and Community-Based Solutions, National Center on Elder Abuse, Newsletter, Vol. 6, No. 7, April 2004.
pg 1.

How is Sexual Abuse Different for Elders? (cont'd)

- Increased chance of sustaining serious injury
- Increased vaginal or anal tearing and bruising that may never heal
- Brittle pelvis or hip bones can be broken by friction or weight
- Increased risk of infections



Victim Characteristics

- Older victims:
 - Are most often female, over the age of 70, and totally dependant or functioning poorly
 - Suffer more genital trauma from sexual abuse than younger victims
 - Are less likely to report sexual abuse than younger victims
- Male victims and female offenders have also been identified

Physical and Behavioral Signs of Elder Sexual Abuse

Physical signs include:

- Genital or anal pain, irritation, and/or bleeding
- Bruises on external genitalia or inner thighs
- Difficulty walking or sitting
- Torn, stained, or bloody underclothing
- Sexually transmitted infections
- Pain and/or itching in the genital area
- Exacerbation of existing illness

Source: "Elder Sexual Abuse Fact Sheet: Elder Abuse, Sexual violence, and the Perpetrators". Adult Protective Services Training Project, Bay Area Academy/SFSU July 2008.

Physical and Behavioral Signs of Elder Sexual Abuse (cont.)

Behavioral signs include:

- Depression or withdrawn behavior
- Sudden changes in personality
- Odd, misplaced comments about sex or sexual behavior
- Fear of certain people or of physical characteristics
- Inappropriate relationship between the victim and suspect
- Elder acting stressed when a particular caregiver approaches to bathe or dress them

Source: Kathleen Dugan, Elderly Often Unrecognized Victims of Sexual Abuse, available at: <http://seniorjournal.com/NEWS/Eldercare/4-11-09SexualAbuse.htm>.

Physical and Behavioral Signs of Elder Sexual Abuse (cont.)

Other nonverbal indicators:

- Human bite-marks
- Cigarette burns
- Rope burns on wrists or ankles (indicating that the person has been tied up)
- Thumb or finger imprints on genitals, thighs, buttocks or breasts

Source: An interview about elder sexual assault with Holly Ramsey-Klawnsnik, Nexus, Vol. 4, Issue 1, April 1998.

Misread Signs of Abuse

- Signs/symptoms may be mistakenly attributed to aging process or to rough caregiving or medical procedures
- Example:
 - Mrs. B was an Alzheimer's patient who stopped talking, which her family assumed to be a side-effect of her disease. She began to show horror when her formerly beloved son-in-law entered her nursing home. The family believed this to be part of her illness. Years after Mrs. B's death, the nursing home owner was arrested for sexually assaulting residents.

Victim Impact

- All elder sexual abuse victims suffer, even if they do not verbalize it or appear too debilitated to be aware of it

Source: Ann W. Burgess & Paul T. Clements, Information Processing of Sexual Abuse in Elders (2006), www.medscape.com/viewarticle/546942

Perpetrator Characteristics

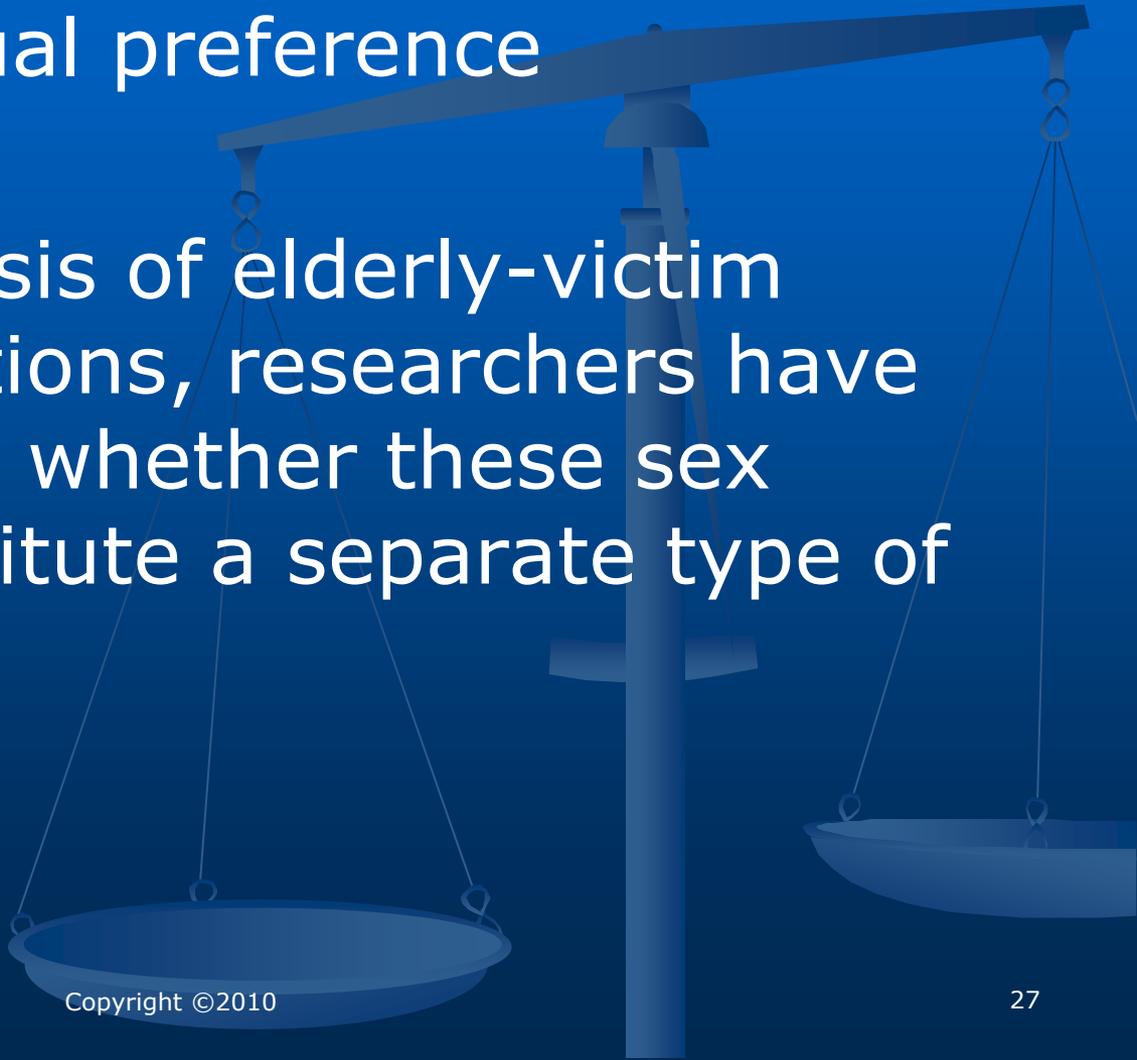
Persons most likely to sexually abuse elders:

- Male caregivers
- Abusive personalities; those who are unhappy, frustrated, or feel entitled to lash out at others with less power
- Sadistic persons who enjoy inflicting harm and terrifying others
- Persons with these characteristics are also more likely to abuse pets

Source: An interview about elder sexual assault with Holly Ramsey-Klawnsnik, NEXUS, Vol. 4, Issue 1, April 1998.

Gerontophilia

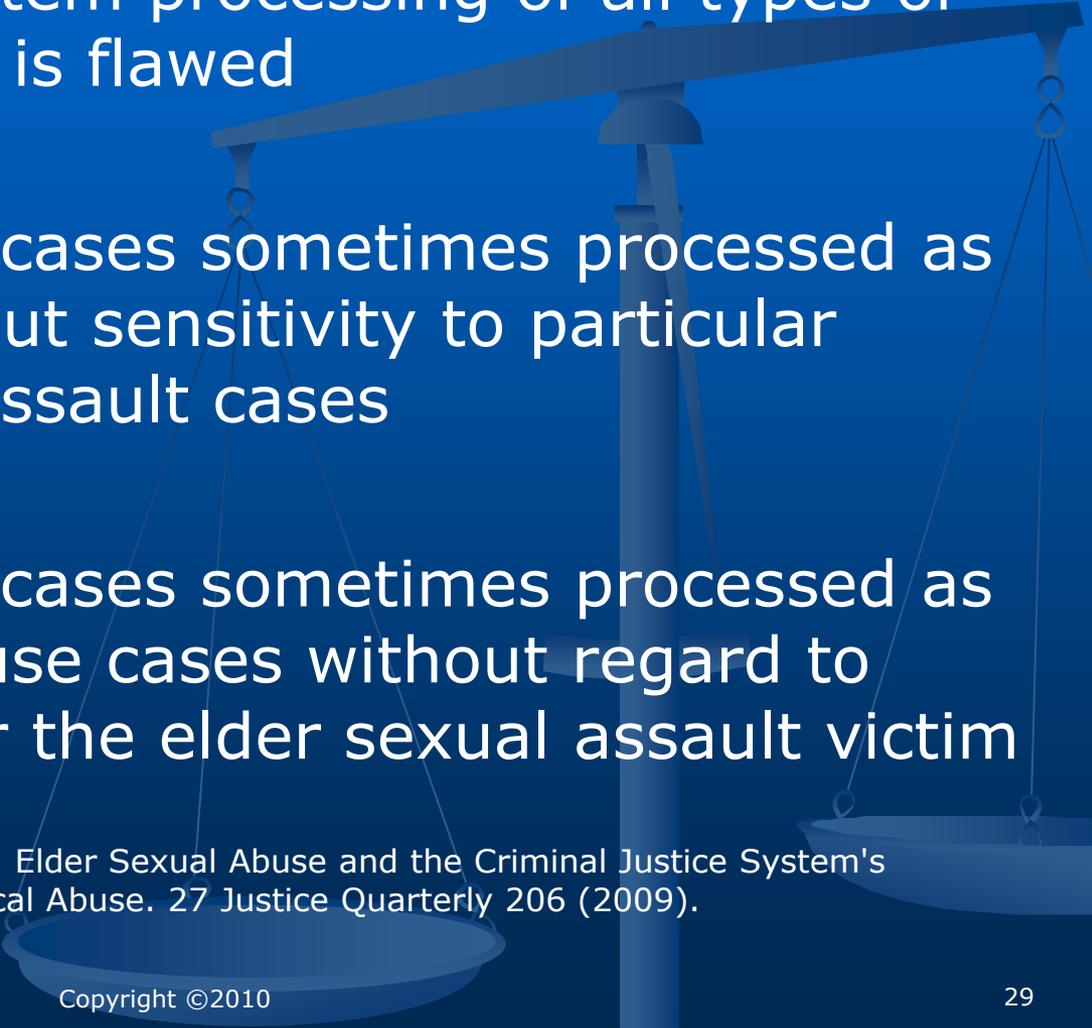
- Gerontophilia is defined as an age-discordant sexual preference
- Based on analysis of elderly-victim rapists' motivations, researchers have begun studying whether these sex offenders constitute a separate type of paraphilia



Barriers to Reporting Elder Sexual Abuse

- Few domestic violence shelters or rape crisis centers provide specific training on intimate partner or elder sexual abuse and assault for advocates and volunteers
- Lack of communication among professionals who work with elder abuse victims, e.g. police, adult protective services, racial workers, health care providers and lawyers

Criminal Justice System Response



- Criminal justice system processing of all types of sexual abuse cases is flawed
- Elder sexual abuse cases sometimes processed as “elder abuse” without sensitivity to particular issues in a sexual assault cases
- Elder sexual abuse cases sometimes processed as “typical” sexual abuse cases without regard to particular issues for the elder sexual assault victim

Source: Brian K. Payne, Understanding Elder Sexual Abuse and the Criminal Justice System's Response: Comparisons to Elder Physical Abuse. 27 Justice Quarterly 206 (2009).

Criminal Justice System Response (cont'd)

- Criminal justice officials must be familiar with the dynamics and patterns surrounding elder sexual abuse in order to be prepared for these cases

Source: Brian K. Payne, Understanding Elder Sexual Abuse and the Criminal Justice System's Response: Comparisons to Elder Physical Abuse. 27 Justice Quarterly 206 (2009).

Court Scheduling: Reduce Delay

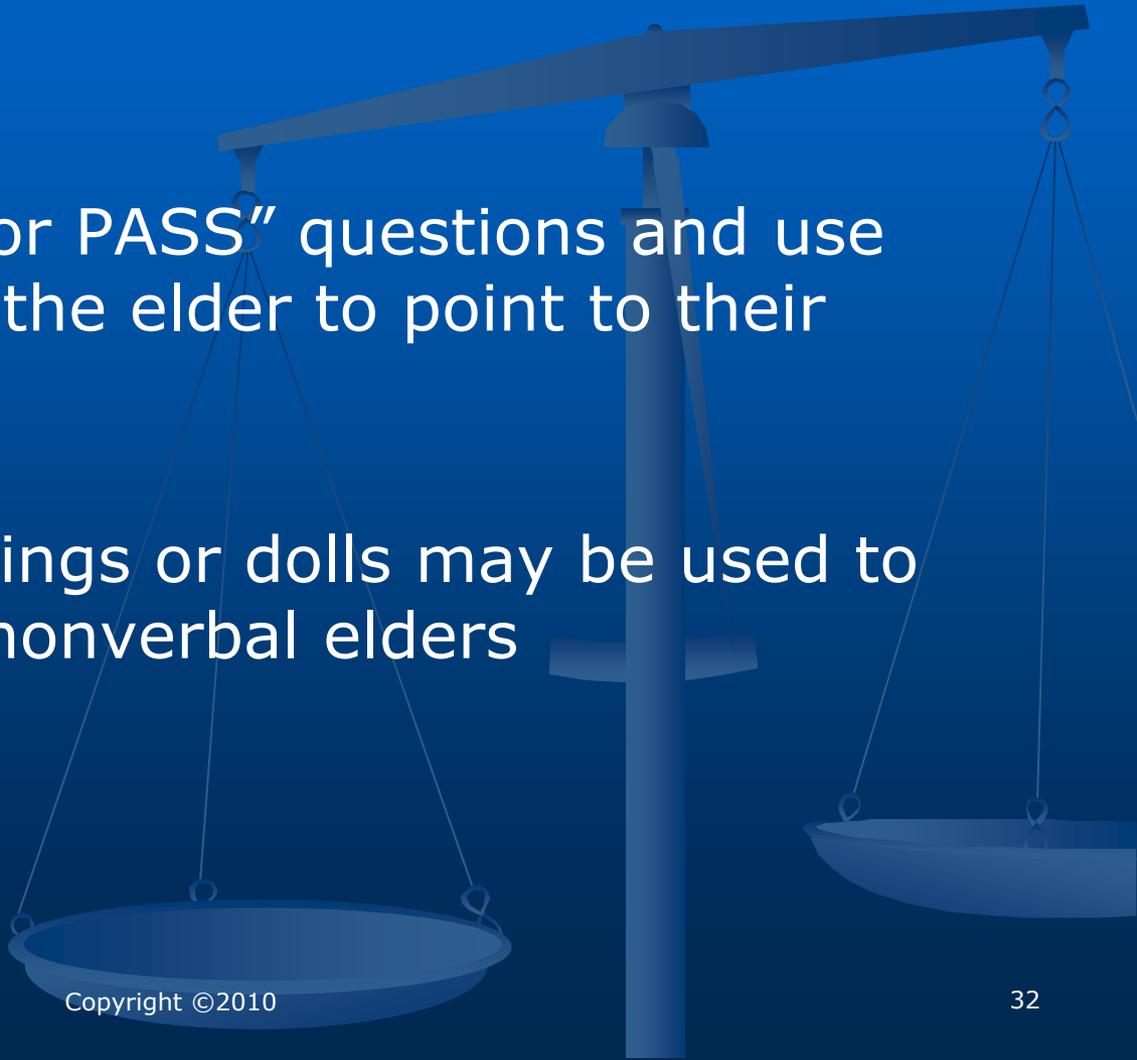


“The elder does not have time on his or her side”

Source: Ann W. Burgess, Elderly Victims of Sexual Abuse and Their Offenders (December 2006), <http://www.ncjrs.gov/pdffiles1/nij/grants/216550.pdf>.

Facilitating Elders' Testimony

- For elders with speech and language limitations:
 - Ask "YES or NO or PASS" questions and use large cards. Ask the elder to point to their answer
 - Anatomical drawings or dolls may be used to elicit details for nonverbal elders



Competence

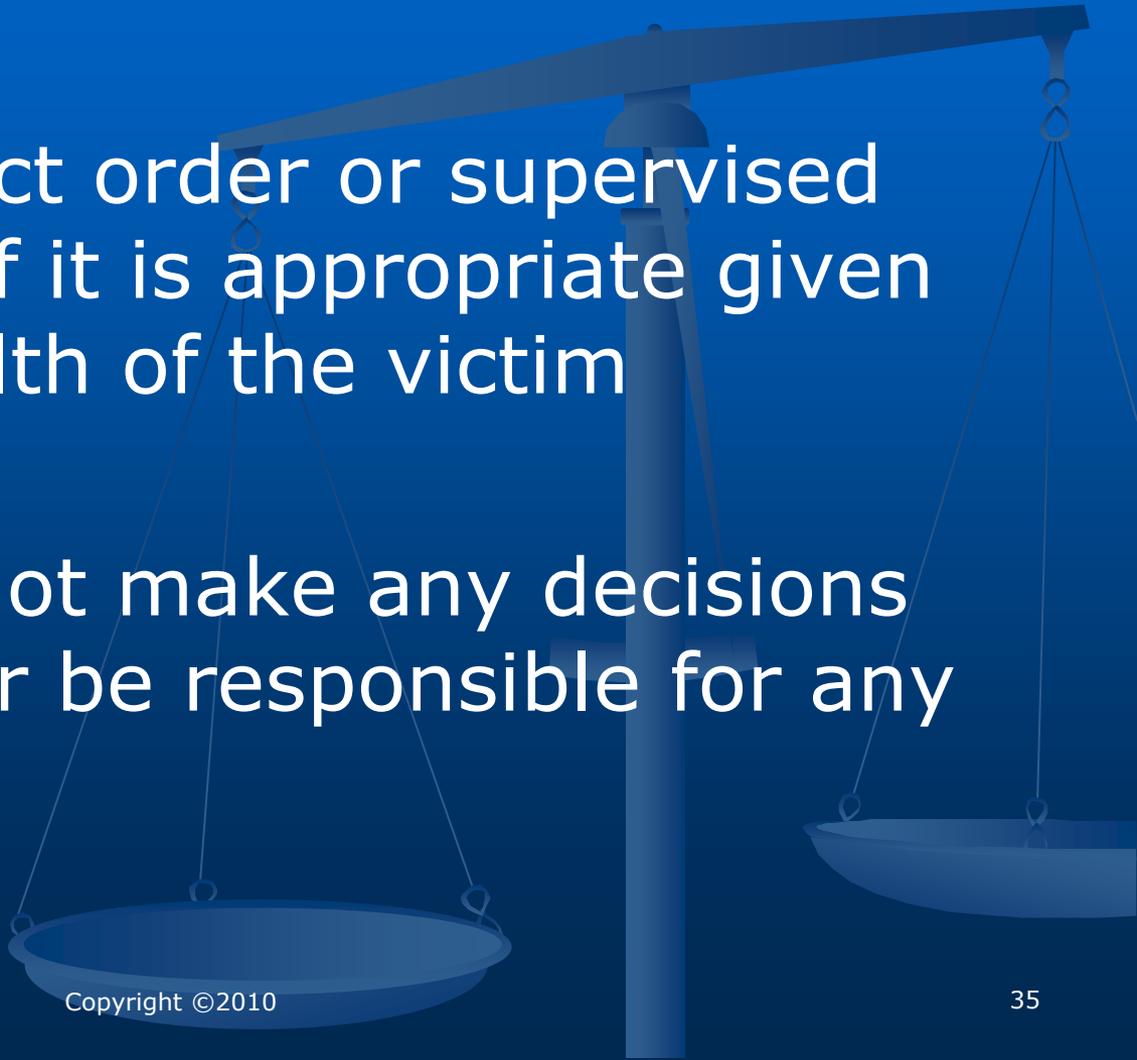
- If an elder's competence to testify is questioned:
 - Allow the victim's physician to testify as to her competence to relate the events in question
 - Sometimes an elder's medication affects the time of day at which she is best able to recall and communicate the events. Try to schedule court hearings at the optimum time
 - Do not assume that a victim is not competent because of a memory issue or even an inability to verbally communicate

Consent

- Mental capacity to consent is often an issue in elder sexual abuse cases
- It is never acceptable for service providers to use clients/patients to meet their own needs, even if the elder did not refuse sexual contact or initiated it

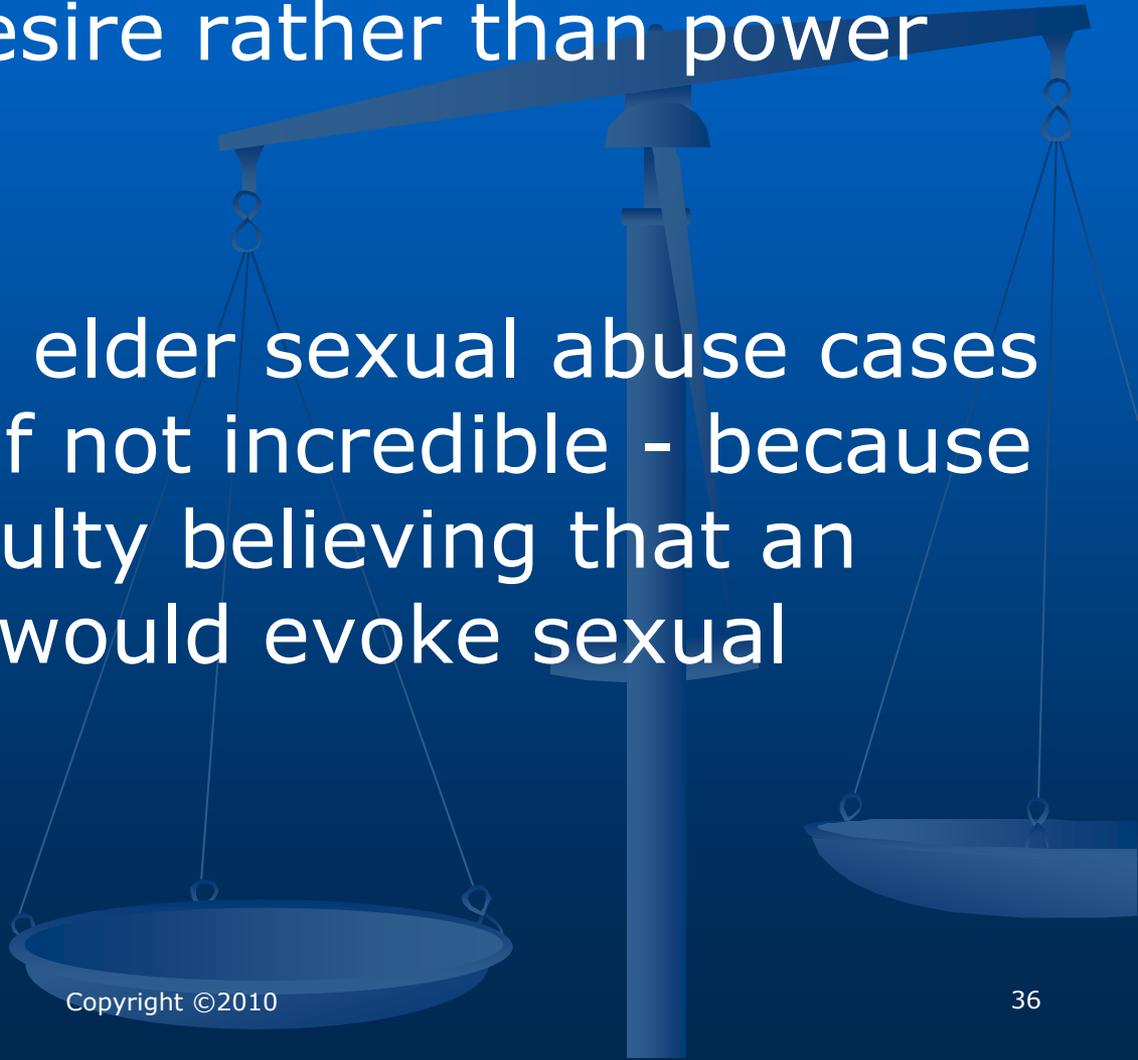
Protections for Victim

- Restraining order against the offender
- Either no contact order or supervised visitation only if it is appropriate given the mental health of the victim
- Offender may not make any decisions for the victim or be responsible for any care-giving



Jury Biases

- Mistaken belief that sexual abuse is about sexual desire rather than power and control
- Jurors may find elder sexual abuse cases less credible – if not incredible - because they have difficulty believing that an elderly woman would evoke sexual desire



Expert Witnesses

- Experts may be necessary to inform jurors about the frequency and types of elder sexual abuse to counter assumptions such as no young man would ever engage in sexual activity with an elderly woman

Recommendations

For suggestions on how to improve court response to elder abuse cases, see:

- American Bar Association, Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse (1996)(http://new.abanet.org/aging/PublicDocuments/rec_cts_hlg_eac_w.pdf)
- Judicial Council of California, Effective Court Practice for Abused Elders (2008) (<http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/EffectiveCourtAbusedEldersMain.pdf>)
- National Center for State Courts, Center for Elders and the Courts, Identifying and Responding to Elder Abuse: A Benchcard for Judges (2008) (<http://www.eldersandcourts.org/>)

Accommodation for Elders

- The California Judicial Council has made numerous recommendations for possible accommodations for elders, for example:
 - To reduce the level of fear for an elder testifying against her abuser, consider allowing direct and cross-examination of the elder to be on videotape or by closed-circuit television

Source: Judicial Council of California, *Effective Court Practice for Abuse Elders* (2008) at 29.
<http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/EffectiveCourtAbusedEldersMain.pdf>

Accommodation for Elders (cont'd)

- The Pennsylvania Coalition Against Rape published a pamphlet titled, "Practical Issues: Preparing and Prosecuting Elder Sexual Assault Cases", co-authored by one of the leading researchers in the field of elder sexual abuse, Professor Ann W. Burgess.
 - This is a very useful presentation of the difficulties confronting elder sexual abuse victims entering the court system and suggests ways courts might accommodate the needs of elderly victims.

Source: The Pennsylvania Coalition Against Rape, "Practical Issues: Preparing and Prosecuting Elder Sexual Assault Cases",
<http://www.portal.state.pa.us/portal/server.pt?open=18&objID=701957&mode=2>

References

Brian K. Payne & Randy Gainey, *FAMILY VIOLENCE AND CRIMINAL JUSTICE: A LIFE COURSE APPROACH* (2005).

Brian K. Payne, *Understanding Elder Sexual Abuse and the Criminal Justice System's Response: Comparisons to Elder Physical Abuse*. 27 *Justice Quarterly* 2-6 (2009).

Karla Vierthaler, *In Focus: Speaking Out on a Silent Crime, Elder Sexual Abuse: The Dynamics of the Problem and Community-Based Solutions*, National Center on Elder Abuse, *Newsletter*, Volume 6, No. 7, April 2004.

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Ann W. Burgess, *Elderly Victims of Sexual Abuse and Their Offenders* (December 2006),
<http://www.ncjrs.gov/pdffiles1/nij/grants/216550.pdf>.

National Center of Elder Abuse—Why Should I Care About Elder Abuse?, available at:
www.ncea.aoa.gov/Main_Site/pdf/publication/NCEA_WhatIsAbuse.doc.

Holly Ramsey-Klawnsnik, *Elder Sexual Abuse within the Family*, 15 *J. OF ELDER ABUSE & NEGLECT* 43 (2003).

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Holly Ramsey-Klawnsnik et al., Sexual Predators who Target Elders: Findings from the First National Study of Sexual Abuse in Care Facilities, 20 JOURNAL OF ELDER ABUSE AND NEGLECT 353 (2008).

National Judicial Education Program, Web course/Resource: Intimate Partner Sexual Abuse: Adjudicating this Hidden Dimension of Domestic Violence Cases,, www.njep-ipsacourse.org. (Registration is free and open to all).

References (cont'd)

David Finkelhor & Kersti Yllo, LICENSE TO RAPE: SEXUAL ABUSE OF WIVES (1985).

Mark Safanik et al., Sexual Homicides of Elderly Victims, 17 J. OF INTERPERSONAL VIOLENCE 500 (2002). Citing FBI Uniform Crime Reports.

"Elder Sexual Abuse Fact Sheet: Elder Abuse, Sexual violence, and the Perpetrators". Adult Protective Services Training Project, Bay Area Academy/SFSU July 2008.

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