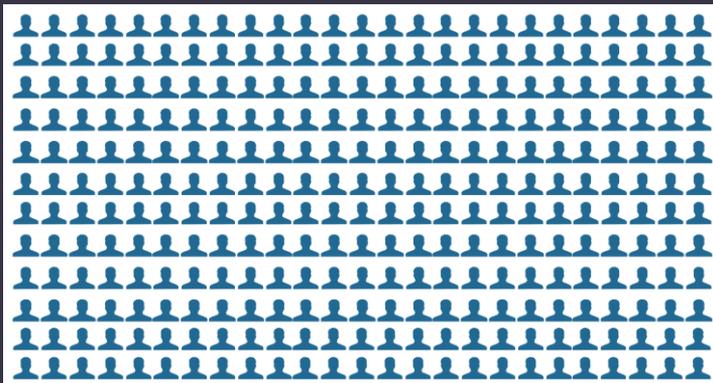


Accountability and Rebuilding

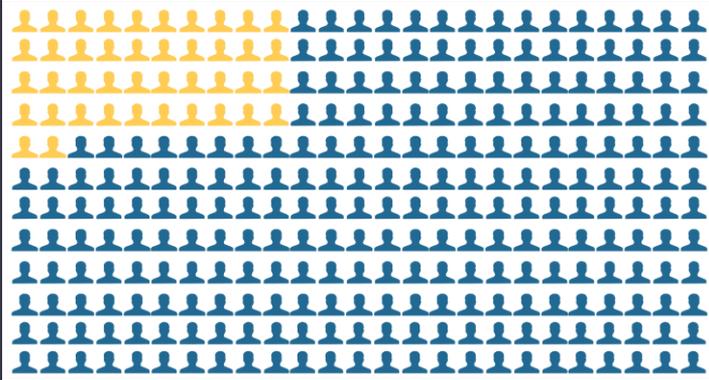
A Panel Discussion on Restorative Responses to Elder Abuse

Presenters: Jenny Ackley, Melanie Carden,
Sarah Reckess, Alice Rudnick and Morgan Thurston

Older Adults - 300

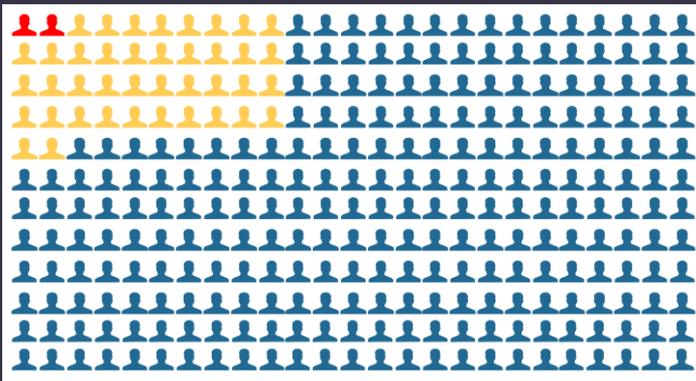


14% experience elder abuse, neglect and exploitation



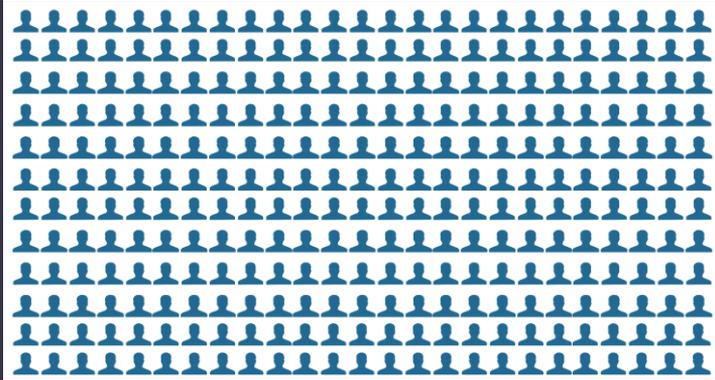
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1 in 24 reports



4

Older adults with dementia



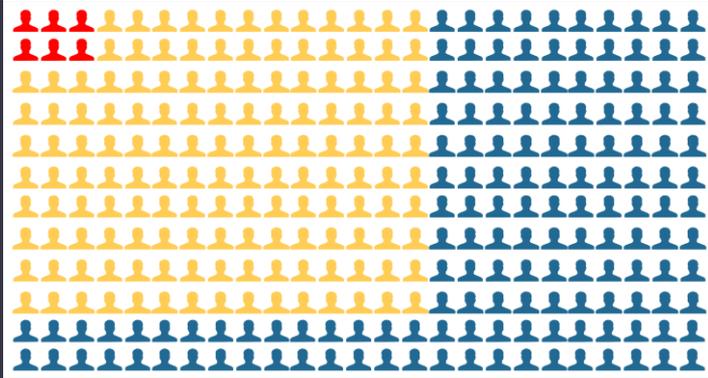
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Dementia - 50% experience elder abuse, neglect and exploitation



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Dementia - 1 in 24 reports



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Why don't older people report?

- ▶ Shame
- ▶ Don't know resources
- ▶ Fear of retaliation
- ▶ Loneliness
- ▶ Fear of abandonment
- ▶ Social isolation
- ▶ Love of family member
- ▶ Family Pressure

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What prevents APS from taking these cases or being able to help?

Don't meet criteria

Self-determination/competency

Don't want family/friends/caregiver to go to jail

Not enough viable options

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What makes these cases difficult to prosecute/make an arrest?

Self determination:
Reluctant witness

Level of capacity/changing capacity

Evidence not clear enough - permission on some, not others

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How do we identify the goals of restorative practices?

The questions we ask matter.

What rules have been broken?
 Who did it?
 What do they deserve?

Who has been hurt?
 What are their needs?
 What are the harms?
 Whose obligation is it to repair the harms?

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Comparison of Criminal Justice System to other Restorative Practices

Goal

Referral

Participant's Roles

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Prosecution

Goal - The prosecutor “is the representative not of an ordinary party to a controversy, but of a sovereignty ...whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.” *Berger v. United States*, 295 US 78 (1935)

Referral - Law enforcement investigatory agency

Participant’s Roles- victim has right to be consulted, final decision rests with prosecutor

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Mediation

Goal - Dialogue and dispute resolution focused on collaborative problem-solving for situations and preserving relationships when possible.

Referral - Courts, Law enforcement, APS; financial institutions, attorneys, medical professionals, clergy; front line and victim services providers; family, friends, self.

Participant’s Roles- Victims and other stakeholders; voluntary; depends on capacity, agreement and interest; supports self-determination.

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Peacemaking

Goal - Dispute resolution; agreement, reconciliation, accountability. The victim's needs are identified and the offender is responsible for repairing the harm



Referral - Diverted from the justice system. Referral from APS, law enforcement; referral from neighborhood; self-referral



Participant's Roles - Participant-driven. Judge may/will decide if we don't decide; we don't know what to do, want an intervention to avoid further escalation

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	PROSECUTION	PEACEMAKING	MEDIATION
GOAL	Justice, defined as consistency, fairness, etc. Determination of guilt and sentence are means to that end.	Dispute resolution: agreement, reconciliation, accountability. The victim's needs are identified and the offender is responsible for repairing the harm.	Dialogue and dispute resolution focused on collaborative problem-solving for situations and preserving relationships when possible.
REFERRAL	Law enforcement investigatory agency.	Diverted from justice system. Referral from APS, law enforcement; referral from neighborhood; self-referral.	Courts, Law enforcement, APS; financial institutions, attorneys, medical professionals, clergy; front line and victim services providers; family, friends, self.
VICTIM'S ROLE	Victim has right to be consulted, final decision rests with prosecutor.	Participant-driven. Judge may/will decide if we don't decide; we don't know what to do, want an intervention to avoid further escalation.	Victims and other stakeholders; voluntary; process depends on capacity, agreement and interest; supports self-determination.

Case Example: Greg's Story

Greg: age 89, large family of adult children and grandchildren

- handles finances himself

Joli: Greg's granddaughter, lives with Greg

- helps with household tasks

Anna: Greg's daughter, Joli's mom

- cleans Greg's home

Other children, grandchildren

- visit frequently

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The Crime: Identity Theft

- ▶ Greg: credit card obtained by identity theft
- ▶ Police: investigation revealed Joli's gambling addiction
 - ▶ Joli denies theft
- ▶ District Attorney: insufficient evidence to prosecute

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What would you do?

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Why would this case be good for Mediation?

- ▶ Family members share concern about Greg's well-being and want to support important relationships:
 - ▶ Greg has been well cared for and happy with Joli
 - ▶ Joli or her boyfriend likely involved in the identity theft
 - ▶ Action needed to prevent this from happening again
 - ▶ Greg's financial skills are declining

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Shared Concerns, Different Positions

Greg

- Stay at home with only Joli and Anna's help
- No assistance with finances

Anna plus one sibling

- Dad should stay at home with outside caregiving help
- POA to Anna or Charley (one of Greg's sons)
- Joli should move out

Son Ed plus two siblings

- Sell the house, move Dad to assisted living
- POA to Ed or Charley
- Joli banned from house

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Mediation

A dialogue and dispute resolution process facilitated by one or more professionally trained mediators in which participants share perspectives, identify issues and options, address differences, consider possible resolutions, and seek to make decisions about future actions and outcomes.

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Mediation

Voluntary
Safe
Neutral
Self-Determined
Confidential

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Mediation Process



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Mediation

01

Parties determine the discussion of issues, options, and possible resolutions

02

Potential to preserve and repair important relationships that support well-being

03

Greater satisfaction with the process and durability with outcomes

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Why would this case be good for peacemaking?

Joli has stolen from family in the past

Family believes Joli is responsible

Greg believes Joli is responsible

Greg is feeling overwhelmed and is seeking personal connection

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Two Different Views of Justice

Conventional Justice

Behavior is a violation of the rules and the state.

Violations create guilt.

Justice requires the state to determine blame (guilt) and impose pain (punishment).

Restorative Justice

Behavior is a violation of the people and relationships.

Violations create obligations.

Justice involves victims, offenders, and other stakeholders in an effort to put things right.

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Peacemaking is a Native American-influenced restorative justice practice that has been adapted in state court systems around the United States, including NYC, LA, and Ann Arbor, MI with the help of Native American peacemakers



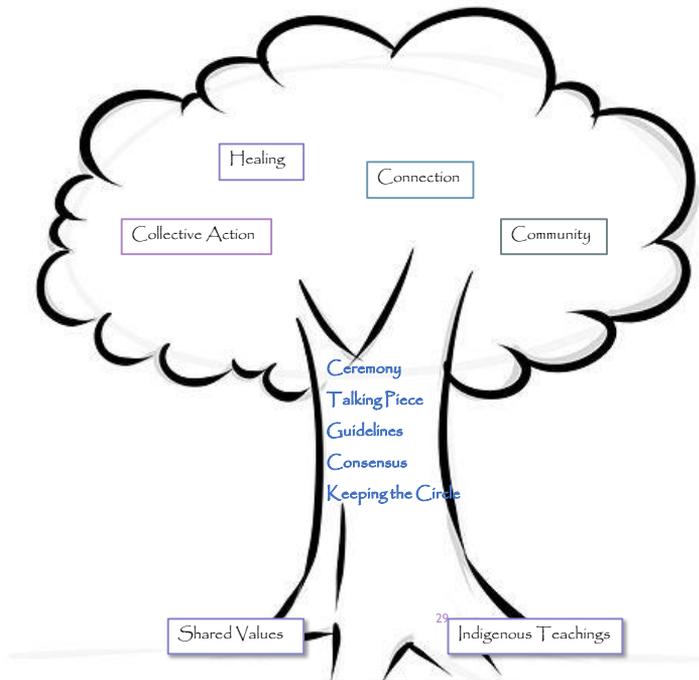
- ▶ Peacemaking includes all parties to a case, community support people, and trained peacemaking volunteers
- ▶ Shared meal
- ▶ Begins and ends with a ceremony
- ▶ Peacemaking seeks to heal relationships and find balance.

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Peacemaking Process

Spend 50% of the time working on shared values, storytelling, accountability

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What are the goals of peacemaking?

- Hold everyone accountable for their role in this situation
- Give the community a voice
- Give the victim a choice
- Identify healing steps for the family, the community
- Involve community support people who can connect with Greg after peacemaking
- Peacemakers are not neutral
- Explore additional options to keep Greg safe
- Non-hierarchical

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Questions and Panel Discussion



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