

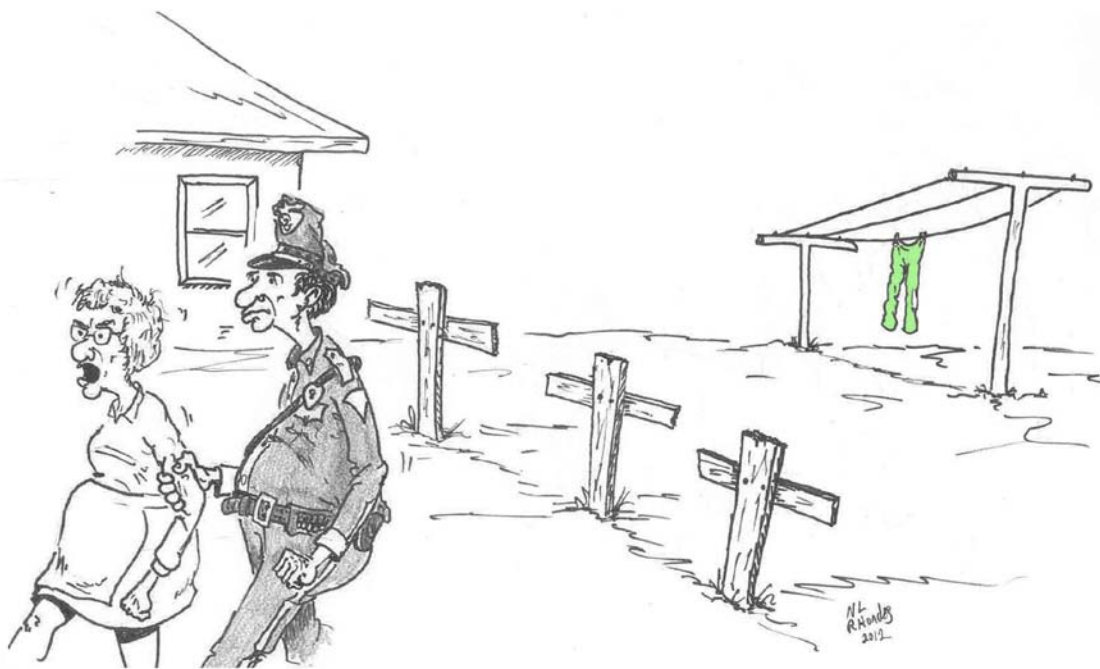
## NMDPS - CAREGIVER – NEGLECT

In San Juan County, a mother took care of her severely disabled (adult) son. Her son was totally dependent upon her for eating, bathing, going to the bathroom or getting dressed. But something happened, something changed, and she became grossly negligent. And, under horrific circumstances, he died.

One possible charge was Involuntary Manslaughter, a fourth degree felony (18 months). More serious is the Resident Abuse and Neglect Act. Neglect of a resident resulting in death, for example, is a second degree felony (fifteen years). NMSA 1978, Section 30-47-4. Defendant argued the Act didn't apply because her home wasn't a care facility nor was her son a resident.

Typically, adults with severe disabilities are in residential facilities. These facilities have a legal duty to care and act on behalf of their residents. Neglecting to provide such care can result in criminal liability. His mother, in becoming a substitute for a residential facility, incurred the liability of a residential facility.

Court of Appeals held the Resident Abuse and Neglect Act includes people in a private residence who take on the responsibility of caregivers to care for severely disabled adults. Jury conviction for violation of the Resident Abuse and Neglect Act, a second degree felony, upheld. State v. Greenwood (2011) - - - ADA Elliott Guttman, Law Enforcement Academy



**You got nothin on me, I ain't no legal care giver  
an my family didn't live in my house, they only  
died there!**