



APRI

American
Prosecutors
Research Institute

Protecting America's Senior Citizens:

What Local
Prosecutors
Are Doing
to Fight
Elder Abuse



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Protecting America's Senior Citizens:

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to Fight
Elder Abuse

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EXECUTIVE SUMMARY

The crime of elder abuse is rapidly gaining the attention of society, policymakers, and law enforcement. As gatekeepers to the criminal justice system, local prosecutors have a crucial role to play in fighting elder abuse. They are frequently central to investigating allegations of elder abuse, prosecuting offenders, and ensuring that critical services are delivered to victims. Yet little is known about how local prosecutors handle elder abuse cases.

This report summarizes a national survey of local prosecutors' offices, in which prosecutors describe their experiences with investigating, prosecuting, and providing victim services in elder abuse cases. In addition, information from case studies of three local prosecutors' offices with successful elder abuse programs is summarized, including various tips and tools developed by these offices.

People who were interviewed for the case studies agreed that several elements were critical to success in working with elderly crime victims:

- The chief prosecutor's personal commitment to a proactive, innovative approach;
- Early involvement of the prosecutor's office;
- Victim advocacy and support;
- Community outreach and education; and
- Law enforcement training.

APRI's national survey suggests that the three case study jurisdictions may be at the vanguard of a growing movement to direct more attention to elderly victims:

- Nearly 30 percent of local prosecutors' offices (typically from more populous jurisdictions) report having a unit devoted exclusively to elder abuse.
- Only a small minority of local prosecutors' offices emphasize early

involvement in elder abuse cases.

- Fewer than a quarter of local prosecutors' offices (mostly in larger jurisdictions) have victim advocates who work exclusively with elderly victims.
- Almost 60 percent of local prosecutors' offices engage in public education and prevention activities regarding elder abuse.
- One-third of local prosecutors report offering specialized training (e.g., for law enforcement, APS, medical personnel) in how to handle elder abuse cases.

The most difficult challenges facing local prosecutors in elder abuse cases, according to the national survey, revolve around the victims' physical and mental capacities, as well as the victims' degree of cooperation in their case.

Throughout the report are selected examples of innovative strategies that prosecutors have found effective in surmounting these challenges. By sharing these ideas with prosecutors across the country, APRI hopes to ensure greater safety and protection for America's senior citizens.

INTRODUCTION

“These people built America, and they need to be respected.”
—Father Coleman Costello, Executive Director, Walk the Walk,
Queens, NY

Most Americans would agree with Father Costello. For all they have given us, America’s elders should be respected, honored, listened to, and, when needed, protected. Unfortunately, too often this is not the case. In the last 25 years, we have become increasingly aware that many of this nation’s elders are victims of abuse and neglect.

What is Elder Abuse?

Definitions of elder abuse vary widely,¹ but in general, an incident of elder abuse involves at least one of the following:

- An intentional act or attempt to inflict *physical* or *psychological* harm;
- Non-consensual sexual contact;
- Illegal or inappropriate use or taking of an individual’s assets or properties; or
- Failure to provide for satisfying a person’s basic life needs, i.e., food, care, housing, medical attention, or other necessities.

How Frequently Does Elder Abuse Occur?

Only one rigorous population-based study designed to measure the frequency of elder abuse has been completed in the United States (Pillemer and Finkelhor, 1988). Even this study was limited in scope, focusing solely on the metropolitan Boston area. Interestingly, the resulting estimate that 3.2 percent of elders had been victims of abuse was in the same

¹ For example, the National Center on Elder Abuse (1998), among others, would include “self-neglect” as a form of “abuse.” This type of harm is not universally considered to be elder abuse, noted by Bonnie and Wallace (2003), self-neglect (where an individual is responsible for denial of the satisfaction of his or her own needs) involves a set of conditions very different from those found in other kinds of abuse—not the least of which is that the abuser is also the victim.

range as estimates produced by comparable studies in Canada and Europe (Bonnie and Wallace, 2003).

The National Center on Elder Abuse (NCEA, 1998) has tried to estimate the degree to which underreporting of elder abuse is a problem. Using data from 1996, NCEA projected that at a national level there were roughly 450,000 incidents of elder abuse and neglect. This research further suggested that, for every reported act of elder abuse that year, another five acts went unreported. These results are at least suggestive of both the magnitude of the elder abuse problem and the extent to which much of the problem remains hidden “beneath the surface.”

The Role of Local Prosecutors

Local prosecutors play an essential role in society's response to elderly victims. As gatekeepers to the criminal justice system, they are frequently responsible for guiding or conducting investigations of elder abuse cases, prosecuting the offenders, and making sure that victims receive the services they need. In fact, when asked about the kinds of services provided by criminal justice professionals in elder abuse cases, Adult Protective Services (APS) workers identified prosecution of perpetrators as one of the “top ten” (Blakely and Dolon, 2000). At the same time, they named prosecution the *most* difficult service to obtain from criminal justice professionals, citing a “lack of interest or cooperation from prosecutors in bringing cases of elder abuse to court” (p.87).

To explore these issues in greater depth, APRI identified and interviewed eight elder abuse experts representing a range of organizations. A sampling of illustrative comments regarding prosecution and prosecutors follows:

- “Some have dedicated staff and are very well-organized. They have the expertise needed to handle elder abuse cases. In the vast majority of offices, it's hit and miss...and priorities can change. Today it's elder abuse, tomorrow it might be gangs or drugs.”
- “They aren't very well trained. It's spotty. Training has to be ongoing, not just to advance basic skills but because of constant turnover. New

people are being added all the time, so they have to be given the basics, much less more advanced training.”

- “They won’t take cases they can’t win... Without a credible witness, prosecutors used to feel there wasn’t a victim and therefore nothing to prosecute at all.”
- “Family theft is often hard to prove. The victim may be embarrassed or ambivalent that theft even occurred. Spousal abuse doesn’t get gone after much because it’s such a complex issue.”
- “There are some prosecutors engaging in such activities [public education and outreach]. Some are doing a great job, but not many... Prevention is better than remediation. Participating in and contributing to public education efforts from APS, area agencies on aging, and other such groups is important. Prosecutors don’t have to originate or lead these efforts. That’s not their expertise, but they should be involved with and help coordinate these efforts, because of their status in the community.”
- “Lack of trained law enforcement to build good cases impedes prosecutors. Judges aren’t trained on these cases, either. The reluctance of the victim to see the perp end up in jail is a big problem. Incapacity of some victims is a problem, though it’s not insurmountable. Then there are overall systemic problems in the interplay between prosecutors, law enforcement, APS, nursing homes, and so on—what roles do each play?”
- “They [victim advocates] call to make sure elderly victims have transportation if they have to appear in court, they explain what’s going on, and so forth, but there’s very little up-front assistance. Once at court, that’s when the local victim advocates do their thing.”

In general, the experts felt that local prosecutors’ offices often are poorly organized and trained for elder abuse cases, generally unenthusiastic about pursuing such cases, uninvolved in public outreach and education

activities, and lacking in elder-specific victim advocacy services. At the same time, the experts recognized that elder abuse crimes can be very challenging, and that local prosecutors are often hamstrung by case characteristics, victim inability or unwillingness to participate, inadequate law enforcement investigations, and other factors.

The experts also acknowledged that some prosecutors are, in fact, doing commendable jobs in investigating, prosecuting, and providing victim advocacy services in elder abuse cases. How do these offices approach elder abuse cases? What challenges have they faced, and what lessons can they share with other prosecutors? This monograph reports the results of intensive case studies of three local prosecutors' offices with elder abuse programs that report successes. Also included is a discussion of the results of a national survey of local prosecutors that focused on their experiences with elder abuse cases.

FIGHTING ELDER ABUSE: THREE CASE STUDIES AND RESULTS OF A NATIONAL SURVEY

APRI designed a national survey to measure local prosecutors' practices and experiences in investigating, prosecuting, and providing victim advocacy services in elder abuse cases. The survey covered the following general topics:

- Basic descriptive information about the local prosecutor's office and the jurisdiction it serves;
- Whether a specialized elder abuse prosecution unit or specialized prosecutor exists within the office;
- The number of elder abuse cases in the office;
- Procedures for handling elder abuse cases;
- Participation in training in elder abuse issues;
- How the local prosecutor's office works with other entities in elder abuse cases;
- Statutory issues regarding elder abuse; and
- Provision of victim advocacy services.

The survey was distributed in the spring of 2002 to a nationally representative sample of 308 local prosecutors' offices.

APRI received responses from 140 offices in 37 states (a response rate of 45 percent). The responding offices represented jurisdictions with a median² overall population size of 433,501 (total overall population of 84.7 million) and a median elder population size of 50,000 (total elder population of 10.7 million). Responding offices had a median of 28 full-time equivalent prosecutors, four investigators, and four victim

²The median is the 50th percentile of the distribution. The median will be used frequently in this chapter, rather than the more conventional mean (or average), because many of the distributions in the survey were skewed. When this is true, it is best to use the median as a descriptor of the central tendency of the distribution because it is less affected by skewness than is the mean.

advocates.³ The offices reported handling a median of three elder abuse cases per month; survey responses ranged from zero through a high of 75.

One crucial purpose of the survey was to identify and select jurisdictions for intensive case study. Three local prosecutors' offices were chosen on the basis of having thriving, successful elder abuse prosecution efforts, while also offering some variation in jurisdiction size, elder population density, structure of the elder abuse prosecution function, and geographic location. The selected offices were:

- 18th Judicial Circuit (Brevard and Seminole Counties), Florida;
- Maricopa County, Arizona; and
- Queens County, New York.

APRI visited each jurisdiction over two to three days, interviewing prosecutors, investigators, victim advocates, and others from outside the offices (e.g., from Adult Protective Services) who could comment on the local prosecutor's initiatives in fighting elder abuse. In addition, APRI collected a wide variety of documents and exhibits; these materials have been added to APRI's library of tools to combat elder abuse.

The following sections describe what APRI learned from these jurisdictions: challenges they've faced, lessons they've learned, and strategies they've adopted to combat elder abuse more successfully. The sections also include results from the national survey that amplify or illustrate what was learned during the site visits.

How Did the Programs Get Started? What Role Does the Chief Prosecutor Play?

Why elder abuse? What was it about these crimes that led the three offices to focus on them, and once the strategic decision was made to

³ These characteristics (especially the staffing levels) suggest that the final sample is, in the aggregate, somewhat smaller than what the federal Bureau of Justice Statistics (DeFrances, 2002) would characterize as the profile of a "medium" office. In the most recent census of local prosecutors, a medium office (which serves 250,000 to 999,999 people) had a median of roughly 40 attorneys, six victim advocates, and nine investigators. A "small" office typically has three attorneys, a single victim advocate, and no investigators. The vast majority of local prosecutors' offices tend to more closely resemble the latter office profile. So, any reported survey results should be considered with these characteristics in mind.

focus on elder abuse, what is the role of the chief prosecutor in the jurisdiction? As illustrated by the experiences of Queens County and the 18th Judicial Circuit of Florida, each jurisdiction has its own history and its own approach.

“Queens has roughly 60,000 arrests a year, a population of two million plus, our elder population is very high. We see exploitation by caregivers and family members and others...we see more than our share of physical and sexual abuse. We have an obligation to do what we can when it occurs, but to also take steps to prevent it. This is a priority issue. Our objective is to be proactive, to recognize signs of abuse before tragedy hits.”

—Richard Brown, District Attorney, Queens County

In Queens, the District Attorney’s office was confronted with a continual flow of evidence that elder abuse was a significant problem. The staff of the District Attorney’s office collectively resolved not just to prosecute such crimes, but to seek to *prevent* them from happening. The DA continues to show his commitment to these cases by reviewing *all* new police reports in the morning, to see for each case what evidence was collected, whether the victim was interviewed, if an arrest was made, and so forth.

On the other hand, in the 18th Circuit of Florida, it was the fact that cases were *not* being referred to the State Attorney’s Office (in an area with a very high elder population) that led the State Attorney to believe that a different approach was needed. The office knew that elder crimes were occurring, but it was not getting referrals of good quality because of case complexities and because local law enforcement wasn’t adequately trained. As a result, the State Attorney specifically chose to personally drive the issue forward.

“There were few elder abuse cases reported, and when they did come in, police and others gave insufficient attention to them. With traditional crime caseloads skyrocketing, line attorneys were too inundated to take the time needed to properly work up incomplete or vague elder abuse case packets. We needed to have a more specialized approach, to focus on that issue alone...A lot of times, you’re dealing with so many groups and agencies that it requires the top guy to have an interest in the program

and to drive it, personally. If you don't keep pushing, the program will fail. The leader has the responsibility to train the people, get them the resources they need, and knock down external and internal barriers. You've got to show them where to go."

—Norman R. Wolfinger, State Attorney, 18th Judicial Circuit, Florida

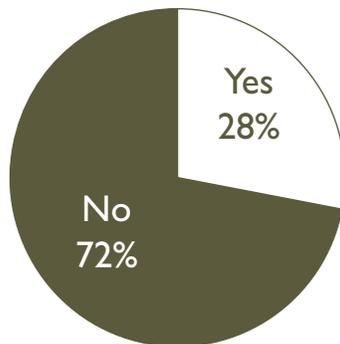
These early themes—being proactive, being innovative, focusing specifically on elder abuse as a unique set of crimes requiring unique responses—will surface again throughout this chapter.

Office Structure

In the national survey, almost three out of every 10 local prosecutors' offices reported having a unit specifically devoted to prosecuting crimes against the elderly (Exhibit 1). Offices in more populous jurisdictions were more likely to have an elder abuse unit.

EXHIBIT I

“Does Your Office Have an Elder Abuse Unit or Other Type of Unit Solely Dedicated to the Prosecution of Crimes in Which the Elderly Are Victims?”



One of the experts interviewed commented on the use of specialized elder abuse units:

“It is ideal to have an elder abuse unit, but it’s not realistic in most cases. Offices are often too small or even part-time. You can’t justify having a unit focused exclusively on elder abuse. What is crucial is having institutional, top-down interest in and support of the issue, so that if a specific person leaves, the program doesn’t get wiped out. How do we take elder abuse from being an issue in which one person is active to one in which the office in its entirety is concerned? The interest has to come from the top.”

As noted earlier, the latter comment about interest coming “from the top” resonates with the experiences of the prosecutors in the three jurisdictions APRI studied. Moreover, APRI’s case studies suggest that having an elder abuse unit is not absolutely necessary, but having staff devoted to such cases *is* necessary. The Maricopa County Attorney’s office does not have an elder abuse unit. Instead, there is a Family Violence unit, which is housed within the Major Crimes bureau. Within Family Violence, there is an expert contact person (a prosecutor) who coordinates all elder abuse cases (including case review, investigations, and the like). There are also victim advocates who work specifically with elderly victims. The prosecutor handles all the elder abuse crimes, allowing the development of expertise and programmatic consistency. In addition, to prevent “re-victimization” that might occur when several different attorneys or investigators interview the victim regarding the facts of the case, Maricopa County’s elder abuse program practices vertical prosecution—the prosecutor specializing in elder abuse handles these cases from initial intake through final case resolution.

The Queens County District Attorney’s office has an elder abuse unit within its Special Victims bureau (which is part of the Major Crimes division). The Deputy Chief of the Special Victims bureau reviews case referrals, decides which ones should receive further attention, coordinates with the police, and immediately sends an investigator out to start collecting evidence and to begin discussing the crime with the victim. This process is particularly important in rape cases.

“DNA databank kits are crucial to finding rapists, so it’s critical to get the victim to go to the hospital to collect the evidence. Our investigation process gains the confidence of victims, who are often reluctant. Also, a pattern of abuse usually exists prior to the incident, so getting an ADA [Assistant District Attorney] out there makes for the best case.”

—*Cindy Suarez, Deputy Chief, Special Victims Bureau, Queens County District Attorney’s Office*

In addition, the Queens County District Attorney’s office makes sure to videotape victim statements. An attorney from the elder abuse unit oversees the investigation process (with the exception of financial crimes, which are assigned to the economic crimes unit). As was true for Maricopa County, once the Deputy Chief refers the case to an assistant prosecutor, Queens County uses vertical prosecution with elder abuse cases.⁴

The State Attorney’s office for the 18th Judicial Circuit in Florida has freestanding “Elder Services Units” in both Brevard and Seminole counties. Here, the victim advocates and investigators focusing on elder crimes review the reports *first*. This practice ensures that victims are contacted immediately and that services are more rapidly routed to them. Further, it allows the investigator to quickly determine what evidence is needed to make the case as strong as possible. At that point, the case is handed over to an attorney to develop.⁵

Both the national survey and the site visit jurisdictions indicated that prosecutors across the country receive the lion’s share of their elder abuse referrals from law enforcement and APS (Exhibit 2).⁶ “Concerned persons” (e.g., relatives, neighbors) are also frequent sources of referrals. Relatively few referrals come from care providers (e.g., facilities, caregivers).

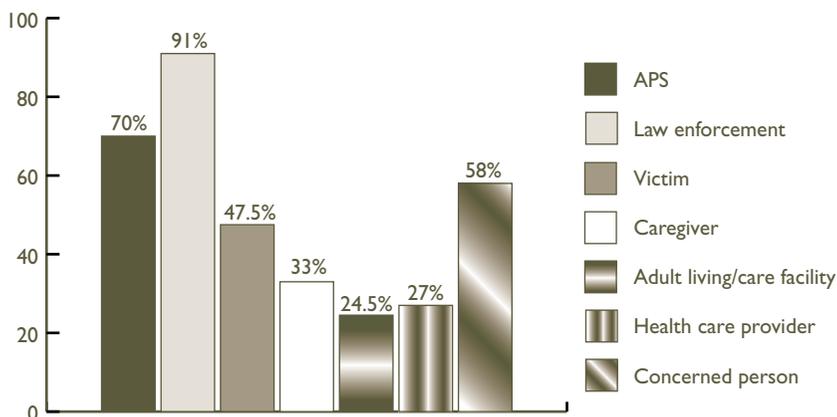
⁴ The Queens County District Attorney’s office also practices vertical victim advocacy.

⁵ At the time of the site visit, the Elder Services Units did not have an attorney specializing in elder abuse cases. Since that time, an Elder Unit attorney has been assigned to assist in case preparation, screening, and prosecution.

⁶ For this question, respondents could indicate multiple sources of cases, consistent with the idea that referrals may be received from any one of a number of sources (even on individual cases). Therefore, the percentages in Exhibit 2 do not sum to 100 percent.

EXHIBIT 2

“How Are Elder Abuse Cases Usually Initiated?”



Consider This...

The Queens County District Attorney’s office sponsors a 24/7 “riding program,” in which assistant prosecutors and others go on ride-alongs with local police. Many elder abuse case referrals result from this process. In addition, when attorneys are present at the scene of a suspected crime, they can ensure the investigation is started immediately and correctly. As part of this, the attorneys can provide on-the-spot training to police officers on what to look for in elder abuse crime scenes.

Investigating Elder Abuse

Across all site visit jurisdictions, it was observed that local law enforcement officials may miss criminal violations due to a lack of training in elder abuse, that crime scenes may be poorly investigated and documented, and that interviews of elderly victims may be either rushed or conducted in ways that were insensitive to the needs of the victim. In addition, local law

enforcement officials may treat cases of elder abuse as civil (not criminal) violations, and be unaware of sources of victim services. For these reasons, all three prosecutors' offices have internal investigation units that are responsible for either coordinating and overseeing law enforcement investigations (as in the 18th Judicial Circuit of Florida) or conducting their own investigations (in Queens County, for example).

Investigators in these local prosecutors' offices have learned that working with elderly victims requires patience and time, to work through the victims' fears of further abuse or of losing their independence. In addition, investigators note that elderly victims often find it hard to remember crucial facts or identify the suspect. Consequently, investigators need to develop a different way of relating to elderly victims.

“Financial exploitation cases are long-term cases. With an elderly victim, you really need to take time. It usually takes a couple of months before you really understand what's going on. Maybe spend a couple of hours with the person, maybe on numerous occasions... You might have lunch with the person, or spend time just getting them comfortable to talk about the situation. Sometimes it takes an hour to explain who you are and why you're there. You can't talk to them like a cop. Talk softly, explain yourself, use simple language. You may need to repeat yourself a lot. You just really need to be patient. You need people who are willing to go out in the field, talk to people, spend time with them. The more time you spend, the more times you stop by to say hello, the less it is a 'case' and more of an effort to make sure the person is comfortable and is cared for. It becomes a friendship after a while. They become appreciative of you and of your listening to them.”

—Mike Giacobello, *Investigator, Economic Crimes Unit, Queens County District Attorney's Office*

Furthermore, effective investigations of elder crimes are often innovative and aggressive. Investigators recommend preserving the victims' statements (e.g., on videotape), keeping in mind that the victims' physical and mental health may be in decline.

“The time of elderly victims is limited. You can’t drag cases out five years and still expect them to be able to testify or even be alive.”

—*Melissa Otto, Investigator, Elder Services Unit, 18th Judicial Circuit State Attorney’s Office, Florida*

In addition, investigators have to be motivated to work on elder abuse crimes because they can be very tough, both legally and emotionally. One individual said that an investigator working on elder abuse cases ideally needs to be a “veteran,” someone who has experience and a network of contacts to draw on and who tries to work as a partner with others. This is particularly true because the law enforcement investigator will often need to coordinate with the prosecutor and Adult Protective Services.

Consider This....

Operation SpotCheck

Brevard County and Seminole County, FL

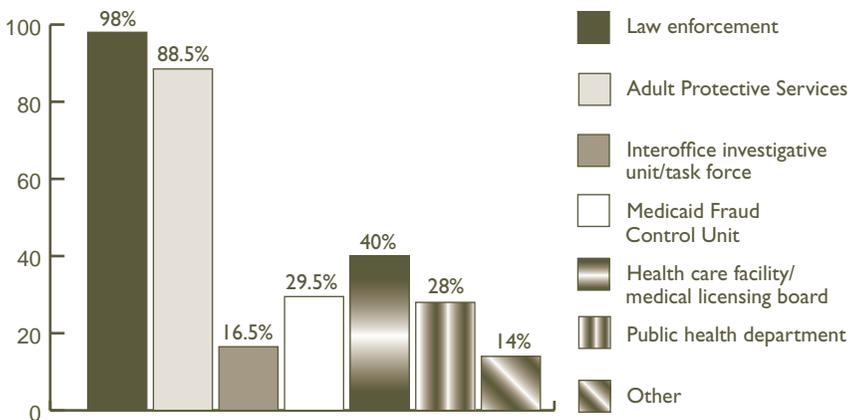
Are you concerned about the quality of care provided to elders by nursing homes and adult care facilities in your jurisdiction? In conjunction with Florida’s Medicaid Fraud Control Unit (MFCU), the State Attorney’s Office for the 18th Judicial Circuit coordinates unannounced inspections of nursing homes and adult care facilities throughout Brevard and Seminole Counties, based on investigative leads, report trends, or random selection. The goal is not to be punitive but to reinforce facilities that are doing well and to prevent problems in facilities that are not doing well. After a briefing, the multi-disciplinary team drawn from a variety of agencies arrives at the facility (usually at an off-schedule time, such as early evening), to thoroughly review its operations. This typically involves looking for fire hazards, checking financial documents, examining medical records and charts, and interviewing residents and evaluating them for signs of abuse, neglect, or exploitation. If, during the inspection, something appears to be amiss, the appropriate team member follows up if assistance is needed, or the unit prosecu-

tor is available to assist with any legal issues that might arise. The most common issue that arises in these inspections is inadequate care, for which the team has authority to mandate immediate changes. One of these inspections is conducted each quarter in Brevard and Seminole counties. Using strategies such as Operation SpotCheck can be an effective means to deter abuse and encourage quality performance in care facilities.

The national survey found that local prosecutors are far more likely to work with law enforcement and APS than with other agencies in investigating a case of elder abuse (Exhibit 3). Use of a “task force” model of conducting investigations seems rather rare. Just one in six local prosecutors’ offices indicated using interagency task forces to investigate crimes against elders. Other agencies, such as licensing boards or Medicaid Fraud Control Units, may be able to provide substantive knowledge in working

EXHIBIT 3

“When it Comes to Investigating a Case of Elder Abuse, Which Agencies Does Your Office Work With?”



with elderly victims, have expertise in conducting investigations in institutional settings, or have civil investigative authority that local prosecutors lack. Conversely, local prosecutors can lend expertise in criminal investigations that the other entities may not have.

Consider This....

Is your jurisdiction experiencing difficulty getting all the agencies involved in elder abuse cases “on the same page?” The Maricopa County Attorney’s office and the State Attorney’s office for the 18th Judicial Circuit of Florida have been instrumental in creating interdisciplinary documents that help everyone in their jurisdictions to understand their roles and responsibilities. Maricopa County’s “Elder Abuse and Exploitation Protocol” was designed to improve interagency relationships and coordination. Designed with input from more than 20 signatory organizations, the protocol provides:

- guidelines for law enforcement investigations of elder abuse;
- guidelines for prosecution of elder abuse cases;
- roles and responsibilities of victim advocates, state ombudsman, Adult Protective Services, and the health care community; and
- a wealth of helpful forms and informational resources.

Similarly, the “Memorandum of Understanding” in Brevard County “establishes operational protocols for the joint investigation of abuse, neglect, and exploitation reports involving criminal allegations.” The MOU makes clear the investigative procedures and roles for the Elder Services Unit, APS, law enforcement, and others. It also sets out some general policy guidelines and objectives for joint case staffing and training initiatives.

Prosecuting Elder Abuse Cases

Three principles undergird how the Queens County District Attorney's office responds to elder abuse cases:

“First, you have to get involved early. Second, you have to give compassionate support as much as possible. Through early involvement and providing support, you may help them to feel better about moving into a safer situation and may prevent further violence. And you have to make them feel that they *can* testify, they *can* be safe, and they *can* go on with their lives.”

—*Marjory Fisher, Bureau Chief, Special Victims Bureau,
Queens County District Attorney's Office*

Why is early involvement so important? It allows:

- prosecutors more time to gain the victims' trust;
- the victim more time to open up about or to describe the crime;
- an opportunity to assess the victim's condition and needs; and
- an earlier opportunity to preserve evidence.

Ultimately, early involvement of the prosecutor's office can lead to a positive impact on the victim's situation. By the same token, taking the time to establish a relationship with the victim can facilitate moving the case forward, while also allowing the opportunity to keep close tabs on the victim's status, needs, and capabilities.

“If you don't treat elder crimes as unique, you'll lose your victim by not bonding, you won't get the proper evidence, you won't know what to look for. And if the prosecutor is involved early, an assessment can be made of the memory and testimony capacity of the victim. Can they travel? Is their health deteriorating? Should the victim testify before a grand jury, or at least should you arrest the offender right away?”

—*Eric Rosenbaum, Assistant District Attorney, Special Victims Bureau,
Queens County District Attorney's Office*

In addition, attorneys interviewed during the site visits consistently reported that there are certain ways of dealing with elderly victims. Time and again,

across jurisdictions, interviewees said that victims of elder abuse need more “TLC,” more patience, and more time to open up. One prosecutor said he makes sure to allow two to three hours for field interviews of elderly victims, so that the victims can tell their story in their own way and in their own time.

APRI’s national survey found that the single strategy in elder abuse cases most frequently reported was establishing early or intensive contacts with the victim (Table 1). Unfortunately, only 16 percent of the offices reported

TABLE I

Describe Strategies That Your Office Uses When Handling Cases Involving Elderly Victims⁷	Percentages
Early and/or intensive contact with the victim	16%
No specific strategies/treat like other cases	14%
Coordinate inside office, and with outside agencies and family	14%
Use videotape/preserve statements of victim	9%
Accelerated proceedings	7%
Special investigative procedures/obtain specific records	6%
Make victim’s time/role in process easier	4%
Work to build trust/understanding with victim	3%
Use staff sensitive to elder victims/crimes	3%
Obtain protection orders/prohibit contact	2%
Use tougher charging/plea/sentencing standards (e.g., vulnerable adult statutes)	2%
Work to ensure restitution	2%
Use vertical prosecution	1%
Evaluate psychological/medical status of victim	1%
Other	6%

⁷ These categories summarize the responses provided for this open-ended question. Many offices did not respond to the question, so the percentages do not sum to 100 percent. In addition, offices often listed several responses to the question, so the separate responses were sorted into different summary categories.

using this strategy. Similarly, the emphasis in Queens and Maricopa counties on vertical prosecution does not seem to be shared by the vast majority of local prosecutors; only one percent of the respondents explicitly reported using such an approach in elder abuse cases.

Only nine percent of local prosecutors report using videotape or other means to preserve the victim's statements, seven percent use accelerated proceedings, and three to four percent indicate doing things to establish good relationships or to make the victim's role in the process easier. In fact, one in seven offices indicated that they did not use any special strategies in elder abuse cases.

The vast majority of interviewees at the site-visit jurisdictions consistently stated that elderly victims and the crimes against them are very much different from the norm, and require "special handling."

Arizona is one of many states with a "vulnerable adult" statute that provides extra protections, not just to elders but to any individual who may be particularly at risk for abuse or exploitation.⁸ Elder crimes may be charged under any applicable criminal statute, but the vulnerable adult statutes provide some additional charging options. Virtually every form of abuse is covered by the vulnerable adult statute, with the exception of homicide (only second degree murder or manslaughter is covered). So, for instance, if a grandson beats his grandmother, the Maricopa County Attorney's office can use vulnerable adult statutes. Such statutes can serve important prosecutorial objectives.

"A good tool is the vulnerable adult statute, which gives some charging tools. The benefit is if it's a serious physical injury, it can rise to a Class 2 felony, rather than just a Class 3 or 4. It gives us an extra bargaining chip in negotiations."

—Steven Lynch, Deputy County Attorney, Maricopa County
Attorney's Office

⁸ In Arizona it is Criminal Code §13-3623. A survey of elder abuse criminal laws is contained in APR's "51 Experiments in Combating Elder Abuse." (See "Resources," page 35.)

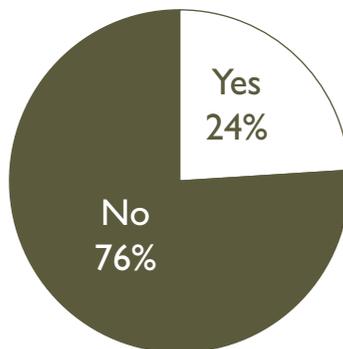
Of course, not all elders are “vulnerable” within the meaning of the statute. In such cases, the vulnerable adult statutes may not apply. In any event, the fact that only two percent of the respondents reported using tougher charging, plea, or sentencing standards may reflect either a lack of knowledge or a reluctance to rely upon the more specific statutes.

Victim Services

A recurring theme during the site visits was how crucial it was to have victim advocates⁹ who focus on elder abuse cases. When possible, having someone on staff who specializes in elder abuse cases and who has developed expertise in them is extremely important. The national survey found that fewer than a quarter of local prosecutors’ offices had victim advocates assigned to work specifically with elderly victims (Exhibit 4). (The median number of victim advocates assigned to work with elderly victims was one.) Once again, it was typically the larger local prosecutors’ offices that had elder-specific victim advocates.

EXHIBIT 4

“Does Your Program Have Victim Advocates Specifically Assigned to Work with Elderly Victims?”



⁹ “Victim advocates” in the Queens County District Attorney’s office are social workers, who either work for, or are assigned to, the District Attorney’s office. However, for the sake of simplicity, this report refers to all providers of these services as victim advocates.

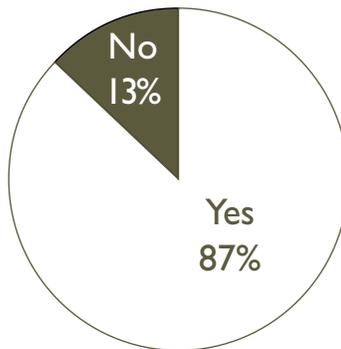
APRI's panel of elder abuse experts had a diverse range of opinions on the need for specialized victim advocates. Some felt it simply wasn't possible for local prosecutors to have advocates devoted specifically to the elderly. On the other hand, the experts were frequently critical of the quality of work directed toward elderly victims by victim advocates in local prosecutors' offices. One person said:

"It may not be feasible to have a victim advocacy unit, much less one focused on elders, but the prosecutor's office needs to have institutional knowledge and commitment."

Of those offices that did have victim advocates who work specifically with elderly victims, nearly 90 percent stated that their victim advocates had special training or expertise in elder abuse issues (Exhibit 5).

EXHIBIT 5

"Do Your Victim Advocates That Specifically Work with the Elderly Have Special Training or Expertise?"



On the other hand, the elder abuse experts interviewed by APRI felt that victim advocates do not receive adequate training in elder abuse:

"Their training is inadequate. They haven't had exposure to these cases, they generally don't know how to work with elderly victims, and they don't know what resources are available."

Prosecutors and investigators alike at the site visit jurisdictions, however, said that effective victim advocates are instrumental in:

- knowing how to address elderly victims, what to discuss during interviews, and when to take a break;
- knowing where to go for needed services, often at a moment's notice when the absence of services would be devastating; and
- familiarizing elders with court facilities and with the criminal justice system in general.

Many elderly citizens are very fearful of the court system. Accompanying the victim to court, answering their questions about the system, and calming their fears are significant contributions made by victim advocates.

Consider This...

Another way to help elderly victims overcome their court-related fears is through audiovisual tools. The Maricopa County Attorney's office has created the "Elder in Court Virtual Tour." Photographs of all of the court facilities (including ramps, jury boxes, and the like) were loaded onto laptop computers to give elderly victims and witnesses a complete overview of what they should expect to see and experience. The tour is provided in both English and Spanish. Could something like this help victims of elder abuse in your jurisdiction?

In addition, victim advocates fulfill the important function of giving information to elderly victims by:

- advising them how their case is proceeding;
- keeping them up-to-date on the status of the suspect (i.e., in custody or not, if and when s/he will be released, etc.); and
- telling them who to contact for answers to their questions.

In Maricopa County, victim advocates make the specific effort to provide this information in such a way that it helps impart a sense of *control* to the elderly victim. As an example, victim advocates explicitly suggest that the victim call key people (such as individuals in the corrections department) when the victim has questions. Also, they encourage victims to give (either in writing or in person during the sentencing hearing) victim impact statements. These suggestions help restore at least a portion of the victims' feelings that they have control over the events of their life.

Transportation of elderly victims (to court, to service providers, and elsewhere) can be a significant problem. Victim advocates frequently fill this gap by arranging for taxi rides or by personally driving the victim to scheduled appointments.

Advocates in Queens County provide a range of counseling services. This includes short-term counseling, referrals to support groups, and even crisis intervention (if the victim is suicidal, for instance). Maricopa County Attorney victim advocates and their community allies also provide a range of counseling (including crisis intervention) and support group services.

However, the national survey suggested that direct provision of counseling services was atypical. Most jurisdictions indicated that they provide referrals to public or private entities that can provide needed counseling services.

Beyond programmatic assistance, victim advocates who are experienced in elder abuse cases are better equipped to understand and respond to victims' needs. They are skilled in communicating with elderly victims. Among the various suggestions on how to successfully work with elderly victims were the following:

- Help the victim to understand that the ultimate goal is to make the victim whole again;
- Be patient;
- Be gentle, kind, and genuinely concerned for them;
- Be a good listener;
- Develop skills in defusing and calming conflict situations;
- Ask permission before referring victims for services—never assume

they want help, or they may feel threatened or insulted;

- Be sensitive to nonverbals, especially if the victim suffers from Alzheimer's or other forms of dementia; and
- When possible, use "back doors" in getting the victim to open up (e.g., "We can get treatment for your son, and isn't that what you really want?").

In the end, victim advocates at the three sites uniformly believed that experience, and a genuine desire to work with elderly victims, were far more important than specialized training. Establishing a close rapport with victims is crucial.

"It's important in being a victim advocate to have a genuine concern for the elderly. You have to have empathy for them, and an understanding of them. These folks come from a very different time and perspective. Trust and integrity were parts of their lives and vocabulary. That causes them to get taken advantage of. It doesn't come easily to them to be wary and untrusting of someone. They are more likely to think someone is being kind and thoughtful."

—*Timothy Siegel, Victim Advocate, Maricopa County Attorney's Office*

Prevention, Education, and Training Activities

Individuals in all three jurisdictions expressed frustration about not being able to engage in more preventive activities because of the workload volume. In spite of this, each reported spending some time in conducting outreach efforts, involving attorneys, investigators, and victim advocates. Often the outreach involved speaking at community centers, hospitals, churches and synagogues, and other places where information can be provided. The intent was not to scare people but to increase awareness (of common scams, for example, or indicators of abuse). Also, these outreach efforts sought to increase vigilance in the community so that everyone is looking out for one another, and to increase knowledge of available services. As one excellent example of the attempt to increase community awareness, the State Attorney's Office for the 18th Judicial Circuit in Florida helped produce a powerful (and graphic) videotape that, in part, explains and illustrates various kinds of elder abuse.

In addition, all three offices (to varying degrees) conduct law enforcement trainings, so that officers will be more aware of what elder abuse is, how to identify it, and what to do if a case of elder abuse becomes apparent. Some of this training is conducted at formal training sessions (such as at police academies); other training is provided in brief presentations, for example, at police roll-calls.

Across the country, local prosecutors are more likely to engage in public education and prevention efforts than they are to offer specialized trainings. More than half of the surveyed offices indicated that they participated in public education and prevention efforts (Exhibit 6), while only about a third of local prosecutors said they offered specialized training in handling elder abuse cases (Exhibit 7).

Education and outreach are important functions, which are often central components of the work of victim advocates. They can conduct educational activities in adult care facilities, hospitals, police roll-calls, places of worship, or other places where people can be informed about elder abuse. Such outreach can educate the community, letting them know what to look for and thereby increasing vigilance.

Educating victims is also crucial. Elderly victims often have to be reminded that it's okay to report abuse, and it is *not* okay to be abused. Teaching them about what makes them appear vulnerable, giving them facts to alleviate their fears about future abuse, helping them to develop positive coping skills, and making sure they understand the importance of taking care of themselves (by taking their medications or by getting to their support group, for instance) are all important and necessary aspects of helping elderly victims cope with the consequences of the abuse they experienced. Sometimes, just listening can be important.

“The ‘telephone training’ is important. Often they just want to talk. They’re lonely. You have to be aware that they are more vulnerable, and remind them of that. Refer them to the senior help line, so they’ll have someone to talk to and to check up on them. Sometimes reaching out to other family members, asking if they want to be involved, is important.”

—*Diane Taylor, Victim Advocate, Maricopa County Attorney's Office*

EXHIBIT 6

“Does Your Office Participate in Public Education or Prevention Efforts That Highlight Crimes Against the Elderly?”

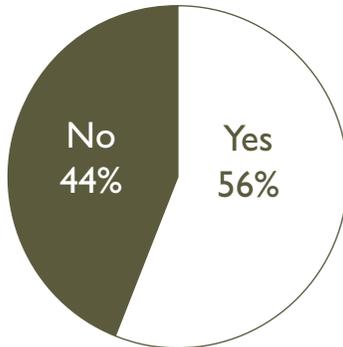
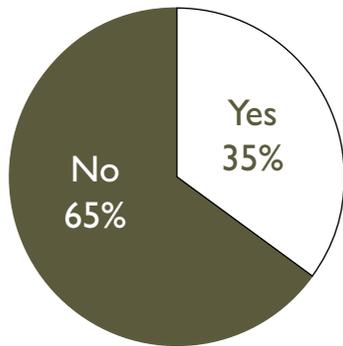


EXHIBIT 7

“Does Your Office Offer Specialized Training for Handling Elder Abuse Cases?”



On the other hand, local prosecutor staff also have educational and training needs in the area of elder abuse. During the course of the site visits, as well as during the expert interviews, APRI sought to identify particular areas in which attorneys, investigators, or victim advocates in local

prosecutors' offices may be in need of further skill or knowledge development. Among the suggestions were:

- Important kinds of evidence in elder abuse cases;
- Competency issues;
- Ways of interviewing and communicating with elderly victims;
- Indicators of abuse;
- Common injuries in elder abuse cases, their effects, and how they differ from other conditions observed in elders;
- Dementia;
- Mental and physical effects of aging;
- Proper investigatory techniques for financial exploitation cases (e.g., phone tracing);
- How medical records can be used in elder abuse cases;
- Nursing home regulatory issues;
- Roles of key players (e.g., APS, ombudsmen) in elder abuse cases; and
- Medical forensics.

Unfortunately, although the individuals interviewed were able to identify topics that would be useful to know, the consensus was that there is too little training available on elder abuse issues, and what exists is too often lacking in quality.

However, people ultimately felt that *desire* and *motivation* are key to success. Liking elders, enjoying working with them, and wanting to handle these cases because of the many challenges and positive outcomes they can bring are critical factors.

CHALLENGES IN ELDER ABUSE CASES

As has been noted throughout this monograph, elder abuse cases can be very difficult. Any local prosecutor's office wishing to step up its efforts in attacking these crimes will need to surmount a number of barriers. Some challenges were site-specific, but many barriers were evident across all of the jurisdictions:

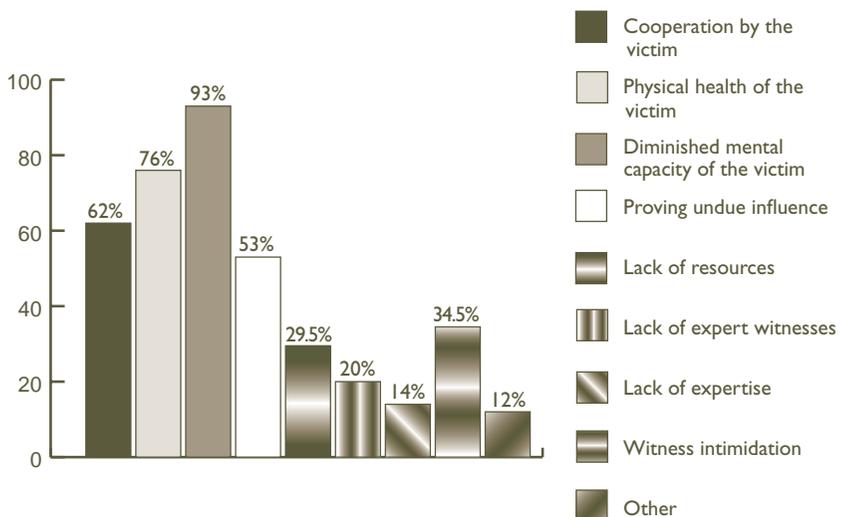
- Lack of physicians knowledgeable in both geriatrics and abuse, who can serve as experts. For example, with a homicide case involving an elderly victim, the victim may have 75 percent arterial blockage. A prosecutor needs to be able to show that the victim didn't die simply of previous physical ills unrelated to abuse. This requires a physician with a very specific background to make that determination.
- General lack of knowledge and training in elder abuse issues, especially among law enforcement first responders.
- Limited availability of certain services (e.g., emergency shelter, treatment for substance abuse) for victims, especially in rural jurisdictions or for members of minority communities.
- Misunderstandings and apathy among key players in the system (judges, prosecutors, law enforcement), as well as the general public.
- Difficulty in avoiding retraumatizing the victim in the course of conducting the investigation and prosecuting the case.
- Uncertainty about the victims' ability and willingness to testify. Dementia can significantly impair the victim's ability to participate in the case. Even if their cognitive skills are adequate, elderly victims often do not wish to testify because they are fearful of hurting someone they care about (even though the person may have abused the victim terribly) or because they fear what the ultimate consequences will be for how they live their own lives. Victims may be embarrassed and may not want their "dirty linen" aired in public, or they may simply be in denial, refusing to accept that they have been the victim of a crime.
- Poor coordination across service agencies.

The national survey revealed similar challenges in terms of investigating and prosecuting elder abuse cases, but there were divergences as well. Exhibit 8 shows that local prosecutors across the nation agree with the case study jurisdictions about the difficulties revolving around victims, particularly with regard to their ability to be involved in their cases because of physical or mental health reasons or their willingness to cooperate in their cases. On the other hand, lack of expertise in elder abuse, lack of expert witnesses (such as physicians with expertise in both geriatrics and abuse), and lack of resources seemed to be perceived as less pressing issues.

Similarly, survey respondents identified a wide range of challenges in providing services to elderly victims. Once again, the health of the victim was at the top of the list, along with reluctance of the victim to cooperate. Familiar themes were described, such as victim transportation, failure or reluctance to report abuse, victim fears, and others.

When asked what resources are most needed to improve victim service provision to elderly victims, survey respondents most frequently mentioned better training and education, whether for prosecutors, judges, law

EXHIBIT 8
 “What is the Most Difficult Aspect of Handling Elder Abuse Cases?”



enforcement, or others. Also receiving frequent comment was a need for more staff of various kinds (especially victim advocates), and more services (e.g., housing) and better delivery of them.

Consider This...

The State Attorney's office in Brevard County in the 18th Circuit of Florida, in partnership with Brevard County TRIAD,¹⁰ has created several initiatives to improve the delivery of services to the elderly:

- “Senior Referral Cards,” half-page cards used by law enforcement in cases where there is no criminal violation but where services are needed. The law enforcement officer fills out the card and faxes it to the local elder abuse help line, where the case is screened for needed referrals. All cases receive follow-up, to ensure that the elder received the necessary services and that the referring law enforcement officer obtains feedback regarding the outcome of the referral.
- “Independent Living Week,” where trained volunteers visit homes of the elderly, assess safety and security needs, and arrange for a handyman to make any needed repairs for free, with local hardware stores providing supplies.
- “Project Lifesaver,” a tracking service to locate elders with dementia who wander from their homes—participating elders wear identifying bracelets.
- “SeniorFest,” a senior educational event that provides opportunities to talk with attorneys about fraud and other issues, as well as some health screenings.
- The “Senior Cell Phone Program,” in which old cell phones are recycled, programmed with call-only capabilities and given to seniors for use in emergencies.

¹⁰ TRIAD is a partnership of public and private organizations that have come together to address issues facing senior citizens. At the national level, TRIAD was based upon an agreement between the National Sheriff's Association, the International Association of Chiefs of Police, and the American Association of Retired Persons. In Brevard and Seminole counties, respectively, the State Attorney's office and a wide variety of other organizations are the TRIAD partners that collectively focus on issues such as the personal safety, health, and transportation needs of senior citizens in their jurisdictions.

Consider This...

A New York survey found that domestic violence shelter programs were designed primarily for women and children. The staff in these programs had no geriatric training; the typical diet wasn't appropriate for elders; medical needs of the elderly weren't being met; and elders typically only stayed for three days at such facilities. "Mary's House" (the creation of Father Coleman Costello) is a 20-bed shelter about to open its doors in Queens. Designed specifically for elderly victims of abuse, Mary's House is thought to be the first of its kind in the nation. Elderly victims (including couples) can stay up to three months in a secure facility with comfortable and attractively designed private rooms. A large recreation and socializing area provides artistic and intellectual stimulation. Age-appropriate meals are created in the facility's kitchen.

A variety of counseling and treatment services are offered (e.g., group counseling, psychological evaluations, chemical dependency education, vocational guidance). Even pet therapy is available!

At the same time, local prosecutors need not feel that they should know everything or have to be able to do everything when it comes to elder abuse. A consensus recommendation on the part of practitioners and experts alike was: *Outreach is crucial*. This is especially true for smaller offices. However, every office must demonstrate a commitment to meeting the challenge of protecting its senior citizens.

"They have to network. You have to spend time meeting with other organizations and building relationships, so you can point people in the right direction. But it's also important to have at least one person in the office providing these services, so someone is there to turn to, to run interference and provide referrals."

—Diane Taylor, *Victim Advocate, Maricopa County Attorney's Office*

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RESOURCES

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Publications

Crime, Abuse and the Elderly, by Mike Brogden and Preeti Nijhar. (2000). Willan Publishing: Portland, OR.

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Materials Collected During Site Visits

18th Judicial Circuit of Florida, Office of the State Attorney

- “Elder Services Resources” (guidebook)
- “Memorandum of Understanding”
- “Operation Spot Check” (pamphlet)
- “Elder Services Unit” (pamphlet)

Maricopa County Attorney's Office

- “Become a Victim Witness Volunteer” (pamphlet)
- “Crime Victim Satisfaction Survey”
- “Elder Abuse & Exploitation Protocol”
- “Elder Resource Guide for Maricopa County” (guidebook)
- “Identity Theft” (pamphlet)
- “Sexual Assault” (pamphlet)
- “Stalking” (pamphlet)
- “Victims' Assistance” (pamphlet)
- “Victim Restitution” (pamphlet)

“Victims’ Rights: Your Guide to the Criminal Justice System”

(pamphlet; English and Spanish versions)

“Victims’ Rights in Juvenile Court: Your Guide to the Juvenile Justice System” (pamphlet; English and Spanish versions)

Queens County District Attorney’s Office

“Elder Abuse Project” (pamphlet)

“Elder Abuse Resource List” (fact sheet)

Web sites

American Association of Homes and Services for the Aging

www.aahsa.org

American Association of Retired Persons

www.aarp.org

American Bar Association Commission on Law and Aging

www.abanet.org/aging

Frederick (MD) Police Department Senior Victim Assistance Unit

www.cityoffrederick.com/departments/Police/policeDep.htm

Maricopa County Attorney’s Office

www.maricopacountyattorney.org

National Association of APS Administrators

www.naapsa.org

National Association of State Units on Aging

www.nasua.org

National Center on Elder Abuse

www.elderabusecenter.org

National Committee for the Prevention of Elder Abuse

www.preventelderabuse.org/index.html

RESOURCES

National District Attorneys Association

www.ndaa-apri.org

Office of the State Attorney, 18th Judicial Circuit of Florida

www.sa18.state.fl.us

Queens County District Attorney's Office

<http://queensda.org>

United States Senate Special Committee on Aging

<http://aging.senate.gov>

United States Department of Justice

www.usdoj.gov

Bureau of Justice Assistance

www.ojp.usdoj.gov/BJA

Bureau of Justice Statistics

www.ojp.usdoj.gov/bjs

National Institute of Justice

www.ojp.usdoj.gov/nij

Office for Victims of Crime: Resources for Elderly Crime Victims

www.ojp.usdoj.gov/ovc/help/ea.htm

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