



Investigations

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Recognizing and Responding to Elder Abuse

The U.S. Department of Justice's Support for State and Local Law Enforcement

Andy Mao, National Elder Justice Coordinator, U.S. Department of Justice



Millions of older people experience some type of abuse, neglect, or financial exploitation every year, with devastating consequences to their physical, social, financial, and psychological well-being. While the U.S. Department of Justice (DOJ) investigates and prosecutes a wide array of transnational and domestic fraud schemes that target older adults, state and local law enforcement are frequently the first responders to many forms of elder abuse. For this reason, the DOJ is dedicated to supporting and enhancing the ability of law enforcement and other elder justice professionals to effectively identify and respond to elder abuse, neglect, financial exploitation, and fraud.

UNDERSTANDING ELDER ABUSE

Law enforcement is on the front lines of elder abuse. However, not all law enforcement officers may be familiar with the many forms of elder abuse. Some may not believe elder abuse is a problem in their community, which invokes the adage “If you don’t look, you won’t see it.” At least 10 percent of older adults (aged 60+) in the United States experience some form of elder abuse each year.¹ Older adults rely on law enforcement to be aware of the red flags and to respond quickly when their well-being is in jeopardy. Elder abuse has some specific elements that make it distinct from other forms of family violence.

Although state statutes vary in their definitions, elder abuse generally includes physical, sexual, and psychological abuse, as well as neglect and financial fraud and abuse (i.e., financial exploitation).² Oftentimes, the person causing the harm is a family member or someone close to the victim, but not always. Sometimes, older adults may not recognize that the treatment they are receiving constitutes a crime. Further, there is often reluctance on the part of older adults to report abuse. Some are concerned about

their loved one going to jail. Others may be concerned that no one will take care of them if their abuser is removed or that they may lose their independence by being placed in a nursing home. Some are simply overwhelmed and isolated. Not investigating a case merely because it involves a family member or because the victim is reluctant to participate is a missed opportunity that could have grave consequences.

When responding to an elder abuse call, law enforcement may be walking into a contentious situation with a history of dysfunction between the parties. Persons causing the harm may appear sympathetic or concerned, but closer examination may reveal their true motives. As noted, what looks like a family dispute may in fact be a crime. Officers should ask themselves, “If the behavior I’m observing was between two strangers, would it be criminal?” If the answer is yes, then perhaps what officers are observing is criminal. Even if no arrests are made, encourage officers to document the incident in case there are future calls.

Recognizing Types of Elder Abuse

Physical, Psychological and Sexual Abuse

Physical abuse is usually the most recognizable form of abuse to law enforcement, although intervening medical issues can mask its effect. Other forms of abuse perpetrated against older adults may be more challenging. A common form of elder abuse is psychological abuse, but it is difficult to observe and document. In sexual abuse cases, the physical evidence may not be readily apparent, but it is imperative that allegations are taken seriously—and warning signs are known and evaluated.³ Obtain the specialized skills of a sexual assault nurse examiner (SANE) where available. There are few SANEs trained in responding to sexual assault of older adults, but there are SANE protocols for those working with older adults. At the very least, officers can connect the older adult with a sexual assault victim advocate at their agency or in their community.

Neglect

Although some studies find neglect is the most prevalent form of elder abuse, at least reported to Adult Protective Services (APS), it is often underrecognized by law enforcement.⁴ While neglect is frequently perceived as less serious than abuse, the consequences can be severe and include painful pressure ulcers, diminished health, dehydration, and starvation. Most states have a criminal neglect statute, but even in those states without such statutes, law enforcement can pursue these insidious crimes. A formal caregiving arrangement is not required to pursue neglect; an informal agreement may be sufficient. While everyone may want to believe that family members will provide loving care for older adults, there are myriad reasons why they do not. Sometimes the selected caregiver is the least suitable to be providing assistance. Family members may nominate a person living with a mental illness or a substance abuse disorder since they are “home anyway,” but

✦ Neglect

Debbie, a 53-year-old woman, moved in with her father, Dale, when he had a stroke five years ago, to provide care for him. Debbie generally takes her father to his doctor and physical therapy appointments, but recently, she has not even been doing that. The neighbors are worried because they haven’t seen Dale in months, and when they walk by it, the home smells even from the sidewalk. Neighbors called the police. When police did a wellness check, they found that Dale was laying on the couch in soiled undergarments. Closer inspection of his backside revealed two pressure ulcers. An ambulance was called.

such persons may be unable to provide appropriate care. Other times, there is simply cruel and wanton disregard of the older adult. Historically, criminal neglect has been challenging to prosecute, but there are prosecutors across the United States advocating for and training prosecutors to pursue these heinous crimes (see the National Institute on the Prevention of Elder Abuse virtual training).⁵

Financial Crimes

Financial crimes against older adults are also a very common form of elder abuse. But both APS and law enforcement often find investigating these crimes challenging. They are not part of a typical caseload and may be unfamiliar to many first responders and detectives. Investigating financial exploitation may be further hindered by its complexity. There are many ways these crimes can be instigated, myriad ways someone can be financially victimized, and multiple types of perpetrators from family to strangers. Financial loss is devastating, but the long-term consequences associated with the financial loss compound the initial harm, up to and including hastening the death of the older adult. The financial crimes that cause the greatest consternation include three scenarios—those involving family members, those involving the appearance of consent, and those involving legal relationships.

Family members. As discussed above, a kinship relationship between the victim and offender does not automatically render the situation civil. Such a relationship may complicate the investigation, but it does not negate the need for an investigation. Many states have criminal financial exploitation statutes that address this unique situation.

Appearance of consent. Law enforcement and prosecutors sometimes say, “It’s not a crime to give your money away.” This is true—but there are exceptions to this rule. The key element in “give away” is consent, but consent must be voluntary to be valid. What appears voluntary can be undermined by several conditions: coercion, fraud, misrepresentation, undue influence, or diminished decision-making capacity. The presence of any of these conditions may not be readily apparent, but they are important to investigate. For example, an older adult who invested in a business and later discovered it was fraudulent, when notifying law enforcement, was told it was a civil issue (i.e., a bad business practice). It turned out fraud was involved, and, ultimately, the fraudster was convicted. A transaction that indicates that consent was given often stops an investigation in its tracks. However, it is important for law enforcement not to assume consent was provided but to dig a little deeper to confirm that one or more of the conditions that undermine consent are not present before closing the investigation. Please note that law enforcement investigators should not be assessing decision-making capacity themselves, but rather describing (not labeling) any concerns or observations in a report so that others can follow up and assess if necessary.

Financial Exploitation

Richardt, a 48-year-old man, lived with his mother, Mrs. Butler, on and off in adulthood. Richardt would take cash from his mother without permission, use her credit cards without her permission, and often threaten her until she gave him money she had hidden. Richardt was addicted to substances, and Mrs. Butler did not want her son living on the street. Richardt’s brother called the police when he learned his mother had taken out a second mortgage and Richardt had taken that money, too.

Legal relationships: guardianship, power of attorney. At times, when a suspect shows a power of attorney form or says they are a guardian of an individual, law enforcement considers the matter civil. However, the mere presence of a form “proving” a legal relationship between the victim and offender does

not necessarily mean the situation is civil. Persons with a legal relationship to an older adult must act as a fiduciary, meaning they cannot spend the person's money in any way they choose, but they must do so in a way that benefits the older adult or comports with their wishes. Breach of fiduciary duty may be a violation of the law.⁶ Additionally, a person may claim he or she is a guardian or has a power of attorney when in fact the person does not (either because of confusion around these legal documents or bold-faced lies). For a guardian, officers can ask to see the "Letter of Guardianship" issued by a court, and for a power of attorney, officers can ask to see the original signed form.

✂ Financial Fraud

Wendy Huang, a 69-year-old woman, lives alone in a two-bedroom apartment. One of her children visits her every other month. She met the love of her life, Rick, online about three months ago. They have tried to meet in person, but it hasn't worked out yet. Three weeks ago, Wendy sent Rick \$3,000 to "fix" the problem and allow Rick to visit Wendy. Last week, he needed another \$2,000—that's all it would take and then they could be together. Wendy's daughter was visiting, noticed the missing funds, and contacted the police.

Abuse in Long-Term Care Settings

Sadly, all forms of elder abuse may also occur in long-term care (LTC) settings (skilled nursing facilities and other forms of congregate living). In an LTC setting, the persons causing the harm are more likely to be staff, although service delivery personnel, visitors, and family members can also perpetrate harm. Some scholars also consider resident-on-resident abuse a form of elder abuse.⁷ LTC settings are unique in that an entire set of federal laws and regulations specifically address abuse occurring in these facilities (in addition to any state legislation and regulations). The Centers for Medicare & Medicaid Services (CMS) requires that LTC facilities report abuse of LTC residents to law enforcement.⁸ Medicaid Fraud Control Units (MFCUs), generally housed in the state's attorney general's office, also respond to abuse of LTC residents.⁹ In many areas, MFCUs and law enforcement investigate these cases collaboratively. However, many law enforcement agencies are not large enough or their officers are insufficiently trained to respond to abuse of LTC residents.

Neglect is the most common form of elder abuse in LTC settings that will involve law enforcement. However, financial exploitation is perhaps the type of abuse that functions most distinctly in this context. Some common forms of financial exploitation in LTC settings include theft of possessions or cash, taking money from funds the nursing home holds for a resident, or the nonpayment of facility bills in which a responsible party (including a family member) fails to pay facility bills and keeps or spends the money for personal uses, at times resulting in eviction of the resident for nonpayment. These are all forms of financial exploitation that may require a law enforcement response.

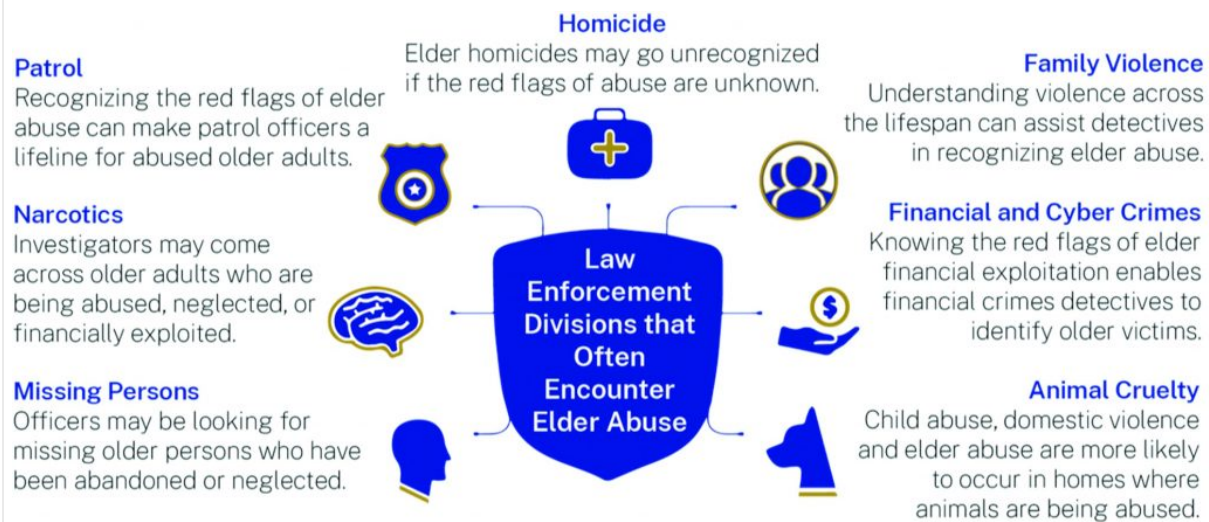
Avoid Victim Blaming

It is often very easy to ask victims how they could have fallen for a scam or become the victim of financial exploitation. These are especially common questions posed to older adults, given misconceptions and biases about their mental capabilities. However, given the right circumstances, anyone can fall for a scam, and the focus should remain on the persons committing the crime.¹⁰

THE ROLE OF LAW ENFORCEMENT IN ELDER ABUSE

Most law enforcement agencies do not have specialized officers to respond to elder abuse. Although such units exist in some states (in Rhode Island, for example), each agency must designate an elderly affairs officer.¹¹ As depicted in Figure 1, officers throughout a department may encounter elder abuse, so it is important for all officers to be familiar with elder abuse.

Figure 1: Law Enforcement Divisions that Often Encounter Elder Abuse



As first responders, law enforcement officers play a key role in identifying and responding to elder abuse. Officers may conduct wellness checks, make arrests, determine if a crime has been committed, file police reports, and enforce restraining orders. Charging elder abuse may be an option, but there are alternatives to elder abuse charges that may work just as well or better in a particular situation.

Each U.S. state has elder abuse mandatory reporting laws, and law enforcement personnel are typically included among those considered mandatory reporters. In most states, APS is the entity designated to receive initial reports, but people often call law enforcement. Ideally, law enforcement and APS are cross reporting and working collaboratively on these cases. In LTC facilities, law enforcement's partner is the long-term care ombudsman.

Currently considered best practice, the work of law enforcement is exponentially enhanced when working collaboratively with other elder justice professionals, particularly as a member of an elder abuse multidisciplinary team, an elder justice coalition, a coordinated community response, an Elder Justice SARs Task Force, or other collaboratives.¹² Collaborations reduce duplication of effort, minimize turf battles, and benefit older persons, elder justice professionals, and the community. When officers know their fellow elder justice professionals, it increases the likelihood of timely referrals to APS or victim services, a vital function of law enforcement.

Finally, as alluded to, law enforcement may encounter older victims living with some form of dementia. Severity varies tremendously, but officers must be aware of this possibility when on a wellness check or responding to an elder abuse report or when they find someone wandering. When returning a person

found wandering to his or her home, officers must be sure the responsible person at home is not an abusive person. Where appropriate, officers can consult their APS colleagues. The vast majority of older adults have no cognitive impairments, but for those who do, extra caution is warranted.

THE DOJ's FOUR-PRONGED RESPONSE

The DOJ has a multifaceted approach to combating elder abuse. These facets include (1) pursuing elder justice criminal and civil cases (often partnering with state and local law enforcement); (2) directly and indirectly providing victim services for older adults; (3) developing training and resources for a host of elder justice professionals, including law enforcement; and (4) promoting prevention through public outreach.

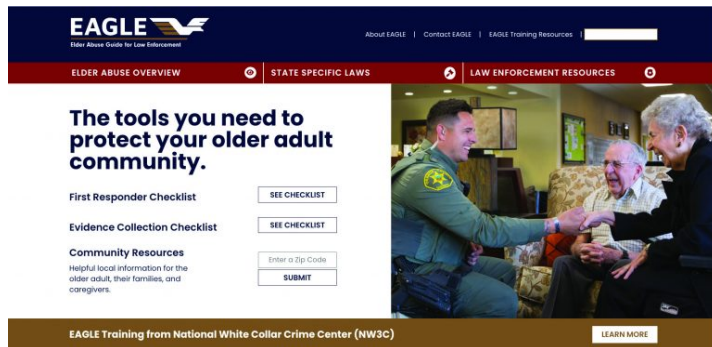
Pursuing elder justice criminal and civil cases. Since 2018, each U.S. attorney's office has a designated elder justice coordinator (EJC)—a civil or criminal assistant U.S. attorney—to aggressively pursue elder justice cases in their jurisdiction. EJCs recognize the importance of working with state and local law enforcement. EJCs and additional components throughout the DOJ have aggressively investigated numerous national and transnational elder fraud schemes (e.g., Jamaican lottery and technical support scams), nursing homes that provide Medicare and Medicaid beneficiaries with grossly substandard nursing services, and a wide array of CARES Act and COVID-19 fraud schemes that affect older U.S. residents. From July 1, 2021, to June 30, 2022, the DOJ pursued nearly 300 criminal and civil cases involving conduct that targeted or disproportionately affected older adults. Approximately 94 percent of the cases were criminal in nature and 40 percent involved international schemes. These cases named more than 600 defendants who collectively stole approximately \$1.5 billion from over 2.6 million victims. The Department has launched or expanded several related initiatives, such as the Transnational Elder Fraud Task Force, the Money Mule Initiative, and Elder Justice SARs Task Forces, all of which are strengthened by collaboration with state and local law enforcement.¹³

Providing victim support for older adults. The DOJ supports the National Elder Fraud Hotline, 833-FRAUD-11, with specially trained operators (case managers) to respond to questions and assist with reporting and referrals. Multiple components within the DOJ provide direct victim services to federal crime victims (e.g., the Executive Office for United States Attorneys' Victim Assistance Program, the FBI's Victim Services Division). Further, the FBI's Internet Crime Complaint Center's (IC3) Recovery Asset Team works with financial institutions to stop the transfer of victim's funds involved in fraudulent schemes. The Office for Victims of Crime (OVC) provides funding to states to support victim services programming at the state and local level. OVC's discretionary funding supports elder justice capacity building at the state and local level. Whether federal, state, or local, the DOJ provides victim recovery support to help older victims regain their sense of safety and well-being, which benefits police agencies and those in the community.



Developing training and resources for elder justice professionals. Throughout the DOJ, components are providing training to elder justice professionals and developing resources to ensure a host of elder justice professionals are prepared to respond vigorously, compassionately, and appropriately to cases involving older adults. Developed specifically for law enforcement, the EAGLE is a web module designed to support law enforcement officers in identifying, intervening, and resolving cases of elder abuse.¹⁴

EAGLE ONLINE TRAINING



Attesting to the value of the EAGLE Online Training, Sublette County Detective Travis Lanning recounts in a Dispatch article titled, “Exposing the Scammers: A Wyoming Sheriff’s Office Fights Financial Crimes Against Seniors,” how an older adult in his community experienced a financial scam. As these are complex cases, Detective Lanning

recognized the need for training in financial scams targeting older adults, noting that, in small communities, law enforcement is often unable to attend in-person training. However, the EAGLE Online Training afforded an opportunity for even a small community like Sublette County to obtain training in recognizing and responding to financial crimes committed against older adults. Also as a result of the training and increased awareness among law enforcement, Sublette County identified the need to develop a public awareness campaign that has resulted in additional older community residents stepping forward to reveal their financial victimization, providing an opportunity to investigate and assist with recovery.

Join DOJ for the National Convening on Promoting the Financial Safety of Older Americans

The U.S. Department of Justice will be hosting an Elder Justice Summit in the fall of 2023 to focus on the role of local, state, and federal law enforcement to combat elder abuse and financial exploitation. The summit will highlight available resources, tools, and training, as well as best practices for collaboration.

Promoting prevention through public

outreach. The DOJ stands at the ready when abuse occurs, but the best approach is prevention. In a variety of ways, components throughout the DOJ promote and engage in public outreach activities as well as develop resources for local public outreach events. The Office of Community Policing Services (COPS Office) funds the National Association of Triads, with communities across the United States engaging in crime prevention and public education for older adults.¹⁵ You Are Not Alone (YANA) programs strive to increase the safety of older and vulnerable community residents through a volunteer police program.¹⁶

In addition, the world commemorates World Elder Abuse Awareness Day (WEAAD) annually on June 15.

Materials are available at the National Center on Elder Abuse WEAAD page to host your own WEAAD event. Through these varied and multipronged activities, the DOJ collectively takes a holistic approach to elder justice, both in its own activities and in support of elder justice professionals throughout the United States.¹⁷

Resources

General

- [Law Enforcement Elder Justice Resource Guide](#)
- [DOJ Elder Justice Flyers](#)

Financial Crimes and Exploitation

- [Elder Justice Decision-Making Capacity Resource Guide](#)
- [Durable Power of Attorney Fact Sheets: Criminal Justice Professionals](#)
- [Blame and Shame in the Context of Financial Fraud](#)
- [Victim-Centered Solutions to Elder Exploitation \(training\)](#)
- [Responding to Transnational Elder Fraud: A Victim-Centered Approach for Law Enforcement \(training\)](#)
- [Tackling Transnational Robocall Scams: The Importance of State and Federal Partnerships \(webinar\)](#)
- [National Elder Fraud Hotline: 833-FRAUD-11](#)
- [Financial Crimes Against Seniors \(training\)](#)
- [Senior Abuse Financial Tracking and Accounting Tool – SAFTA](#)

Neglect and Abuse

- [Expanded Authority for Cases of Patient Abuse or Neglect in Noninstitutional Settings: Frequently Asked Questions](#)
- [Elder Abuse Guide for Law Enforcement – EAGLE](#)
- [The Elder Abuse Guide for Law Enforcement \(training\)](#)
- [Adult Protective Services: Your Partner in Combatting Elder Abuse](#)
- [Law Enforcement: Building Stronger Cases with Elder Abuse Multidisciplinary Teams](#)
- [Identifying and Responding to Elder Abuse: An Officer's Role \(roll call videos\)](#)
- [Response to Elder Abuse: A Self-Assessment Workbook for Law Enforcement](#)
- [Legal Issues Related to Elder Abuse: A Pocket Guide for Law Enforcement](#)

Cognitive Vulnerabilities

- [Persons Living with Dementia in the Criminal Legal System](#)
- [Alzheimer's Initiative](#)

BE PREPARED!

There are many things agencies can do to ensure that their officers are prepared to respond to elder abuse. Agencies can complete a self-assessment workbook for law enforcement on its readiness to respond to elder abuse, install the EAGLE directly into squad cars, and facilitate training so your officers can identify and respond appropriately.¹⁸ There are many options available:

- Show roll call videos at roll call.
- Encourage officers to take the one-hour EAGLE online training.
- Support officers viewing the Training Resource for Law Enforcement and Other Investigators (23 short modules) available from the National Clearinghouse on Abuse in Later Life.
- Apply for EAGLE in-person or virtual training.

IACP RESOURCES

- [Identifying and Responding to Elder Abuse: An Officer's Role](#)

theIACP.org

- [IACP@Work: Know the Signs: Elder Abuse](#)
- [The Brief: Identifying and Responding to Elder Abuse: An Officer's Role](#)

All law enforcement and justice professionals have a role to play in combating elder abuse, neglect, and financial exploitation. The DOJ is committed to supporting the efforts of state and local law enforcement. Only by working together can the safety, security, and dignity of older adults be ensured. ♡

Andy Mao is the Department of Justice's Elder Justice Initiative coordinator, as well as a deputy director of the Civil Fraud Section. As a prosecutor, he investigated and litigated fraud cases involving pharmaceutical manufacturers and health care providers; he now helps to coordinate the DOJ's efforts to combat elder abuse, neglect, and financial exploitation.

Notes:

¹National Council on Aging, "Get the Facts on Elder Abuse," February 23, 2021.

²The U.S. Department of Justice (DOJ), "State Elder Abuse Statutes."

³Elder Abuse Guide for Law Enforcement (EAGLE), "Sexual Elder Abuse."

⁴Pamela B. Teaster et al., *The 2004 Survey of State Adult Protective Services: Abuse of Adults 60 Years of Age and Older* National Center on Elder Abuse (Washington, DC: National Center on Elder Abuse, 2006).

⁵National Clearinghouse on Abuse in Later Life (NCALL), "NCALL 2022 Virtual Training Series for Prosecutors," July 21, 2022.

⁶Lori A. Stiegel, *Legal Issues Related to Elder Abuse: A Pocket Guide for Law Enforcement* (Washington, DC: Bureau of Justice Assistance, 2014).

⁷Mark S. Lachs et al., "The Prevalence of Resident-to-Resident Elder Mistreatment in Nursing Homes," *Annals of Internal Medicine* 165, no. 4 (August 2016): 229–236.

⁸Director of Survey and Certification Group to State Survey Agency Directors, "Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC): Section 1150B of the Social Security Act," June 17, 2011, revised January 20, 2012.

⁹National Association of Attorneys General, "National Association of Medicaid Fraud Control Units"; See also Suzanne Murrin, Deputy Inspector General for Evaluation and Inspections to All Medicaid Fraud Control Unit Directors, "State Fraud Policy Transmittal 2021-1, Expanded Authority for Cases of Patient Abuse or Neglect in Noninstitutional Settings: Frequently Asked Questions," August 30, 2021.

¹⁰*Blame and Shame in the Context of Financial Fraud* (FINRA Investor Education Foundation, 2022).

¹¹City of Warwick Police Department, "Elderly Affairs."

¹²DOJ, *Law Enforcement: Building Stronger Cases with Elder Abuse Multidisciplinary Teams*.

¹³DOJ, "Transnational Elder Fraud Strike Force"; DOJ, "Money Mule Initiative."

¹⁴EAGLE website.

¹⁵National Sheriff's Association, "National Association of Triads."

¹⁶COPS Office, "You Are Not Alone: A Law Enforcement Approach to Monitoring the Needs of Vulnerable Citizens," *The Beat: A COPS Office Podcast*, 2022.

¹⁷National Center on Elder Abuse, "World Elder Abuse Awareness Day."

¹⁸Jane M. Sadusky, *Response to Elder Abuse: A Self-Assessment Workbook for Law Enforcement* (Madison, WI: NCALL, 2010).

Please cite as

Andy Mao, "Recognizing and Responding to Elder Abuse: The U.S. Department of Justice's Support for State and Local Law Enforcement," *Police Chief* 90, no. 6 (June 2023): 30–37.

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