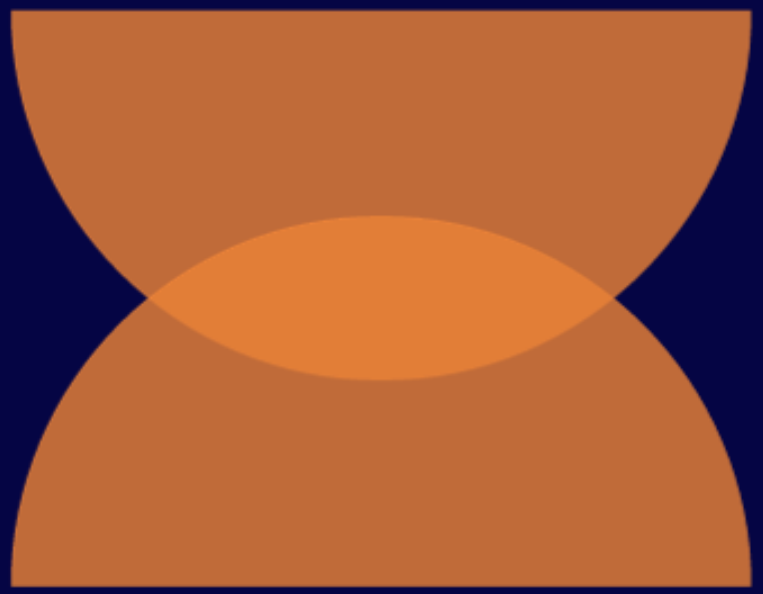


# NATIONAL ELDER JUSTICE LAW ENFORCEMENT SUMMIT

# Law Enforcement and Elder Abuse Investigations

Laura Mosqueda, MD
Professor of Family Medicine and Geriatrics
Director, National Center on Elder Abuse

Keck School of Medicine of USC
Department of Family Medicine

EAGLE
Elder Abuse Guide for Law Enforcement

# Game Plan

- Medical overview (Laura Mosqueda MD) 30 min
- EAGLE overview (Julie Schoen JD) 15 min
- Case studies (Det. Cherie Hill, Laura Mosqueda MD, and special guest star Page Ulrey, Senior Deputy Prosecutor's Office King County WA) with audience Q&A 45 min

**Aging is accompanied by changes that make us susceptible to physical and emotional injury.**

# As age increases, so do the number of health, social, and psychological changes

- Chronic Illnesses
- Medications
- Depression
- Dementia
- Quantity and quality of social support

# Examples of Usual & Common Changes

- Musculoskeletal system: Decrease in bone density, Lower muscle mass
- Neurologic: Reaction time, Memory
- Integument: Thinner epidermis, Capillary fragility
- Sensory: Presbycusis, Macular degeneration, Cataracts

# It's often hard to distinguish between an injury due to abuse and one due to an innocent cause.

"Of course they have a _____, they're old!"

- Pressure sore
- Fracture
- Bruise

- Elder Abuse takes many forms and occurs across all settings.
- Multiple types of abuse may occur simultaneously (polyvictimization).

**Physical**

**Psychological & Emotional**

**Financial**

**Sexual**

**Neglect**

# Physical Elder Abuse

**EAGLE Roll Call Video Clip**

# Setting the Stage

- Establish rapport
- Establish privacy
- Establish safe environment
- Normalize the questions
- Be empathetic
- Don’t assume

# Interviewing tips

- Calm, quiet, familiar environment
- Body language
- Private interview
- Compensate for sensory deficits
  - Vision (glasses, positioning)
  - Hearing (aids, positioning)
- Be aware of your tone, attitude, body language

# Physician Consultation

- Could be in-person, remote, real time, and/or retrospective
- Examination (observations, history, physical, cognition)
- Laboratory tests (blood tests, imaging studies)
- Medications (prescription and over the counter)
- Medical records and other records (e.g. paramedics, police reports)

# Physician Consultation

- Could be in-person, remote, real time, and/or retrospective
- Examination (observations, history, physical, cognition)
- Laboratory tests (blood tests, imaging studies)
- Medications (prescription and over the counter)
- Medical records and other records (e.g. paramedics, police reports)

- What we need from **you**: context, a specific question, well-organized information

# Example of referral from LE to MD

- Mr. A is an 87 year old man who "gave" his house to his caregiver. His daughter says he is confused and didn't know what he was doing. Here is a copy of the police report with statements from Mr. A, his daughter, and caregiver. We can provide 5 years of medical records.
  - Did he have the capacity to "give" his house to his caregiver in May, 2022?

# Example of referral from LE to MD

- A 92 year old woman called 911 yesterday. She was found on the floor with multiple bruises and blood dripping from an ear. Her son said she fell (she agreed with him), but the EMTs questioned this due to the extent of injuries and apparent fear of her son. She was admitted to the hospital with a presumed fall. The son has had 2 arrests for DV in the past year and now he is the primary caregiver for his mom.
  - Can you contact the hospital and help with getting the documentation and tests needed to sort this out?

# History and Observations

- Implausible/ vague explanations
- Delay in seeking care
- Unexplained injuries – past or present
- Interaction between victim and perpetrator

# Physical Examination

- General appearance (e.g. weight, clothing, hygiene)
- Mood/Affect and behavioral indicators (e.g. eye contact, agitation, reaction to questions, fear, grimacing)
- General exam: heart, lungs, feet
- Injuries/wounds
- Function

# Injury Assessment

## Injuries such as

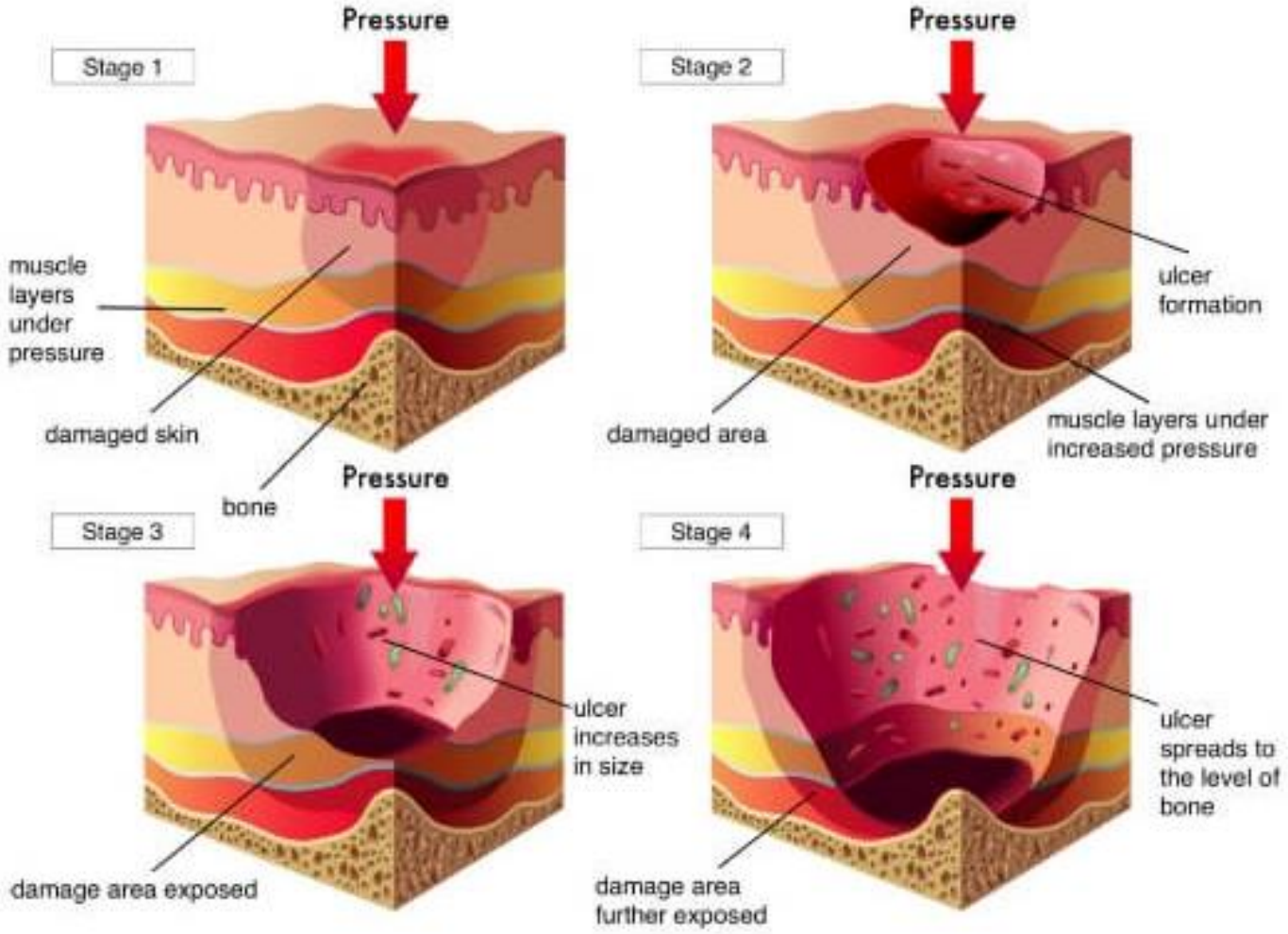
- Bruises
- Pressure sores
- Fractures
- Burns

## Things to Look for

- Location
- Delay in seeking care
- History Consistent with exam

# Pressure Sores

- Common
- Often preventable
- Usually treatable



# Bruises in Older Adults

## Accidental

- 90% on extremities
- 10% mostly on trunk
- Not on neck, ears, soles, genitalia buttocks
- 25% remembered cause
- If suspicious-looking, had reasonable explanation

## Inflicted

- More likely on head, face neck, chest, abdomen, palms, soles, buttocks
- On multiple planes; patterns
- Larger (>5 cm); deeper; took longer to resolve
- 90% remembered cause of at least one bruise

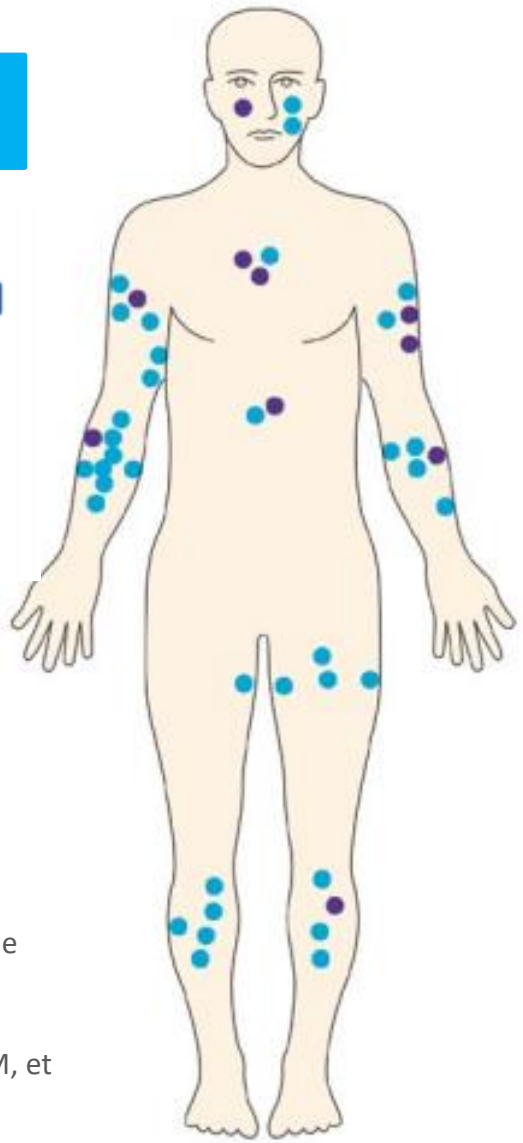
# Accidental

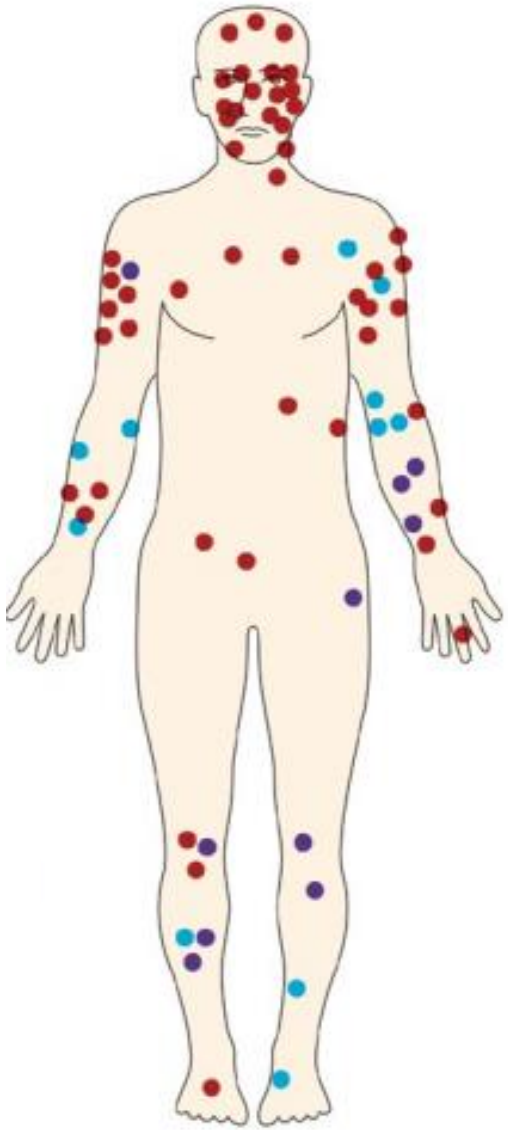
# Inflicted

**Anterior**

**ORIGIN OF BRUISE**
**(as reported by elder)**

- Unknown
- Accidental
- Inflicted






Mosqueda L, Burnight K, Liao S. The life cycle of bruises in older adults. JAGS. 2005.

Wiglesworth A, Austin R, Corona M, et al. Bruising as a marker of physical elder abuse. JAGS. 2009.

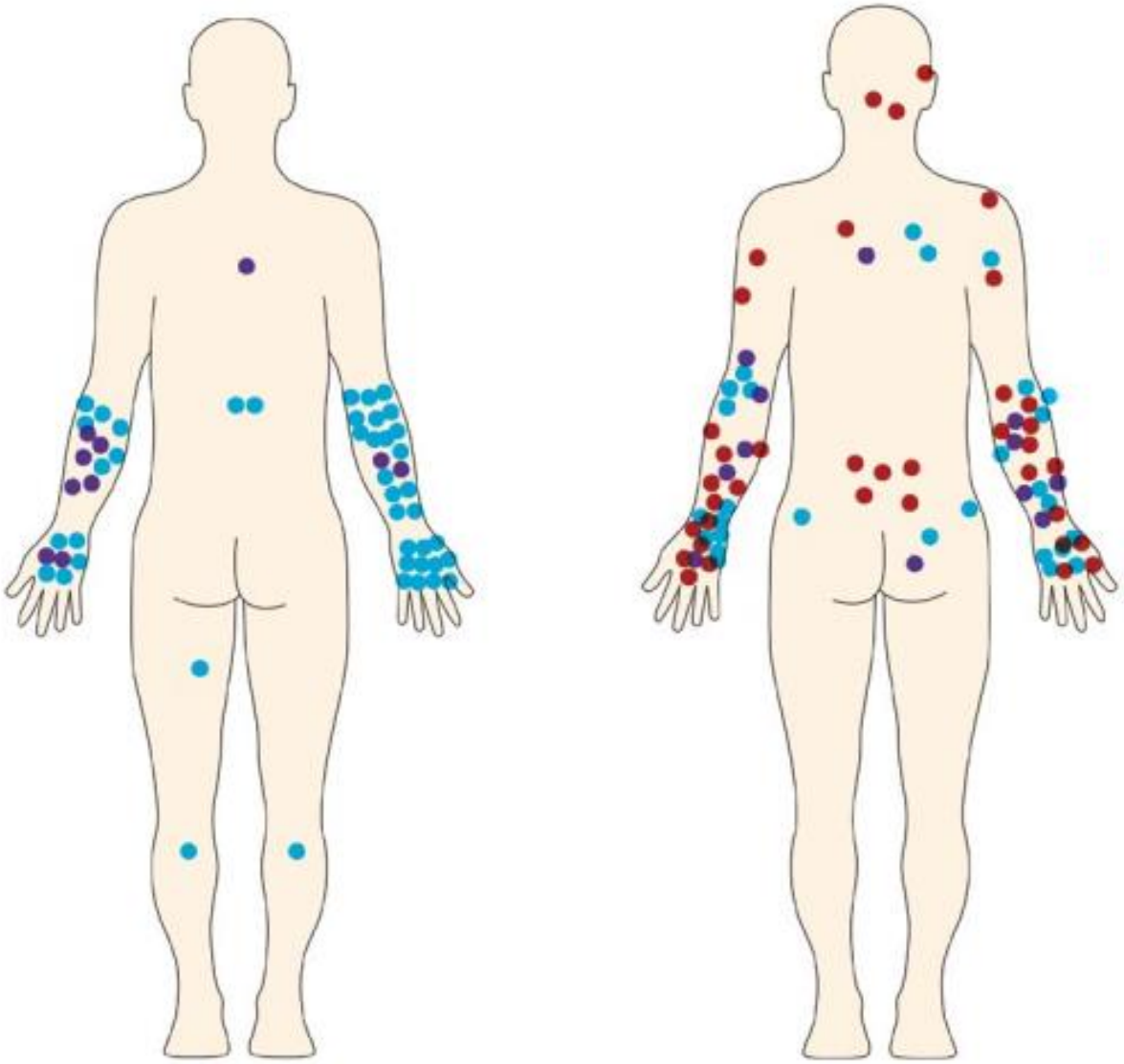
# Accidental

# Inflicted

**Posterior**

**ORIGIN OF BRUISE (as reported by elder)**

- Unknown
- Accidental
- Inflicted

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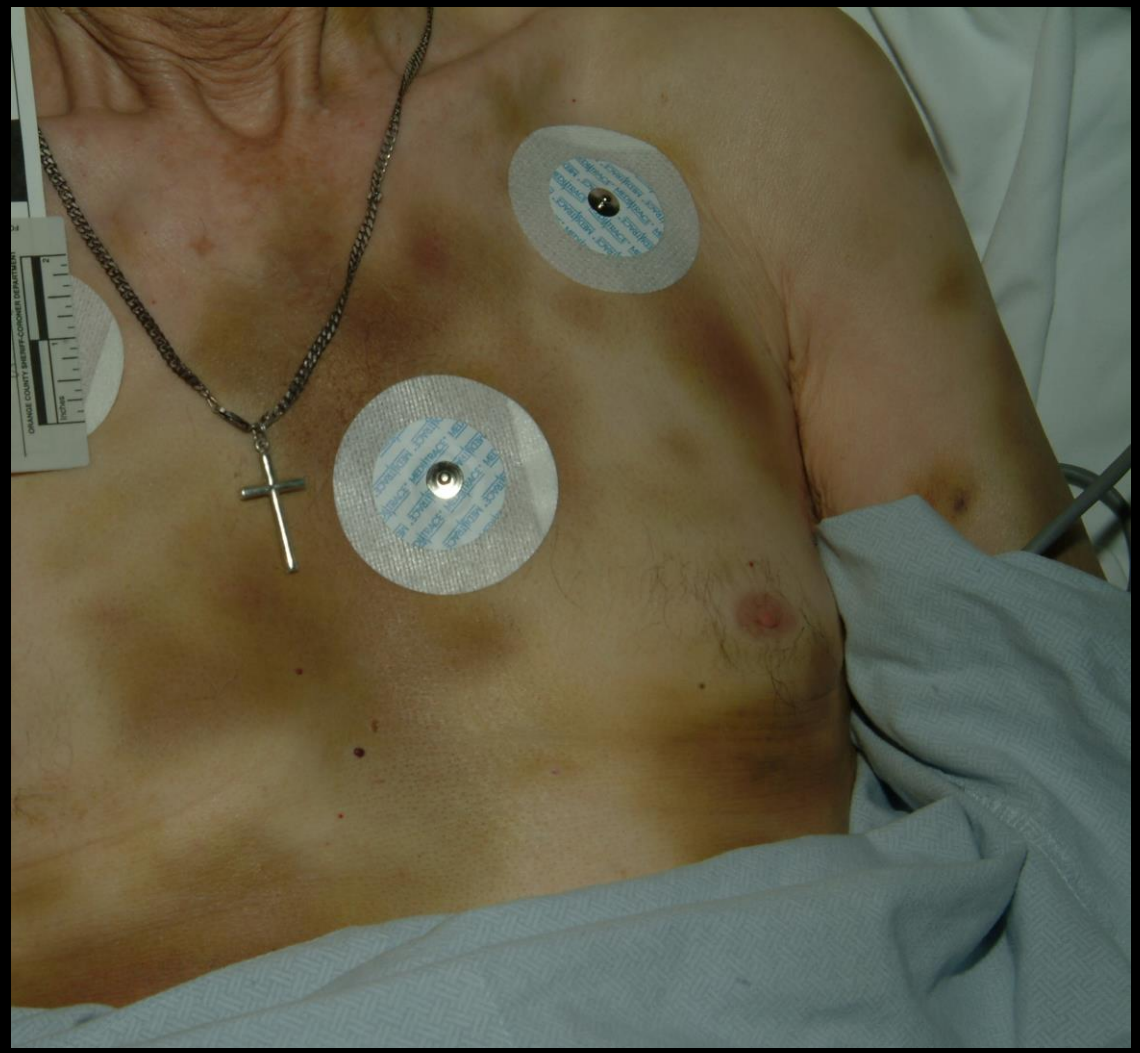
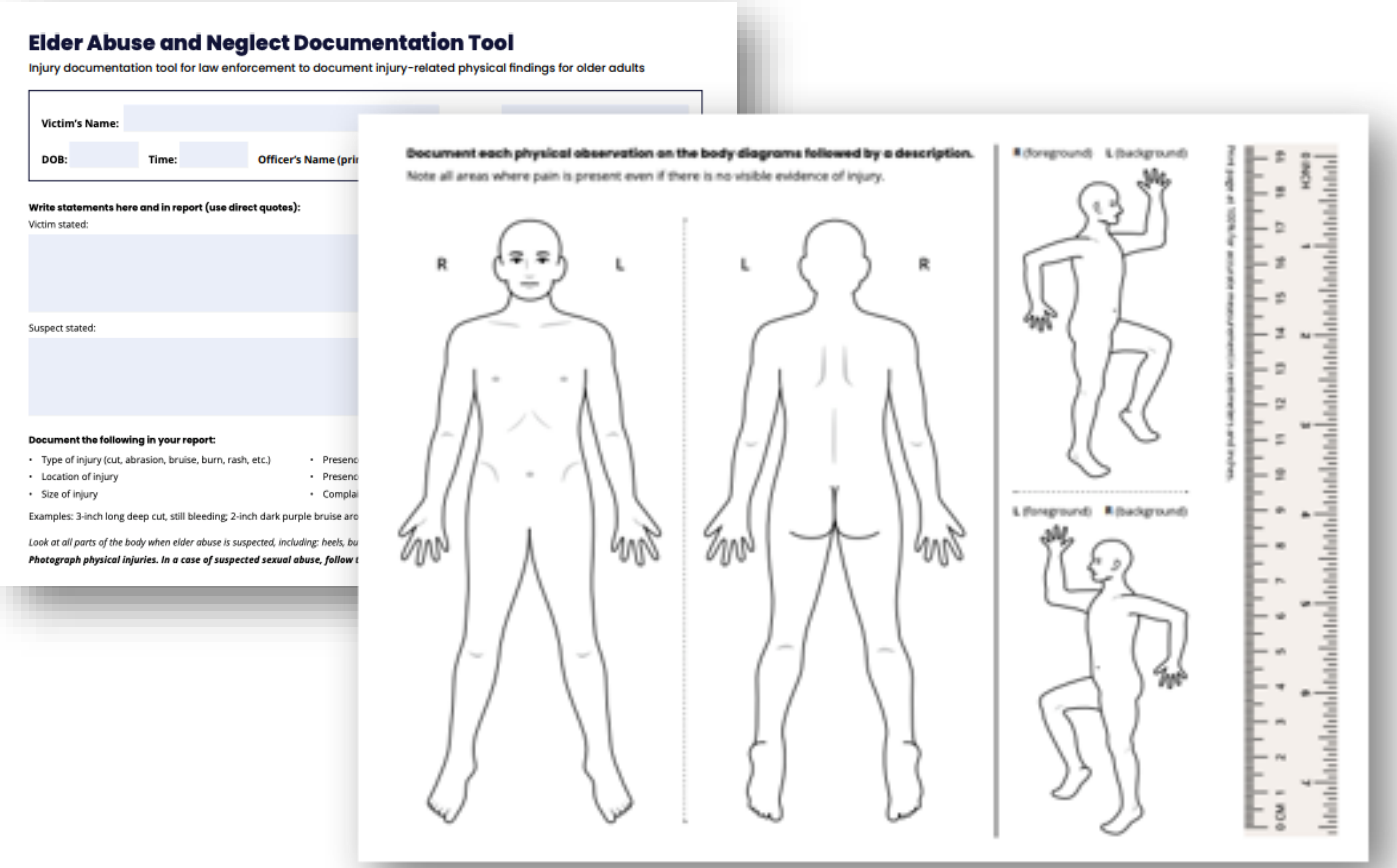
ADENNA
MEDIUM


ORANGE COUNTY EMERGENCY COORDINATION BRACELET
FROM
TO

# Other Potential Forensic Markers

- Dehydration + Malnutrition
- Medication misuse
- Burns
- Contractures
- Lacerations + Abrasions
- Fractures
- Subdural hematomas
- Behavioral changes



**Elder Abuse and Neglect Documentation Tool**

Injury documentation tool for law enforcement to document injury-related physical findings for older adults

**Victim's Name:**

**DOB:** **Time:** **Officer's Name (pri**

**Write statements here and in report (use direct quotes):**

Victim stated:

Suspect stated:

**Document the following in your report:**

- Type of injury (cut, abrasion, bruise, burn, rash, etc.)
- Location of injury
- Size of injury
- Presenc
- Presenc
- Complai

Examples: 3-inch long deep cut, still bleeding; 2-inch dark purple bruise aro

*Look at all parts of the body when elder abuse is suspected, including: heels, bu*

***Photograph physical injuries. In a case of suspected sexual abuse, follow t***

**Document each physical observation on the body diagrams followed by a description.**

Note all areas where pain is present even if there is no visible evidence of injury.

R L L R

■ (foreground) ■ (background)

■ (foreground) ■ (background)

Behavior
BASIC MOVEMENTS
BALANCE
SENSATION
Emotion
SKILL
SPEECH
VISION
FOREHEAD

# Dementia

- Approximately 7 million people in the USA live with dementia.
  - This number is expected to double by 2060

- Half of all older adults with dementia are mistreated.
  - Caregivers are the most common abusers, especially adult children and spouses

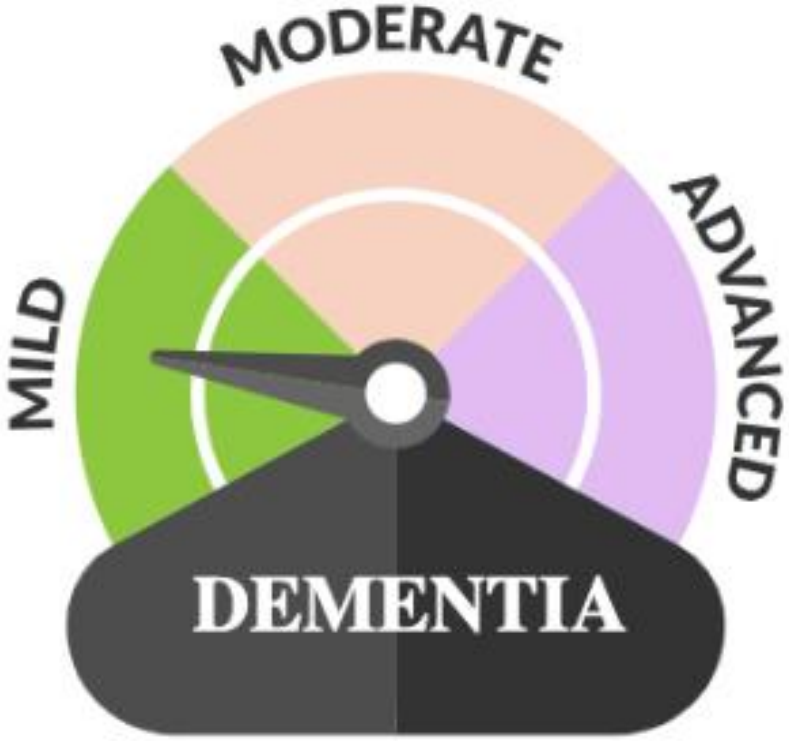
# The Person with Dementia:

- May be unable to *recognize* abuse
- May be unable to *report* abuse
- May not be *believed*
- May not be *recognized* as having a dementia

# Early AD

Symptoms:

- Short term memory
- Words
- Judgment

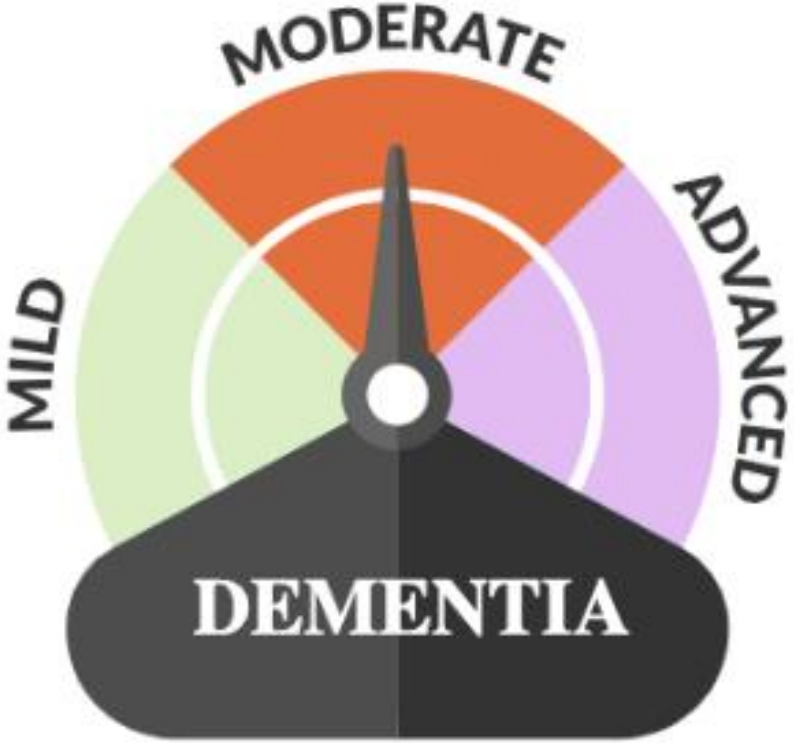



# Financial Abuse

# Mid AD

Symptoms:

- Behavior
- Dressing
- Insight

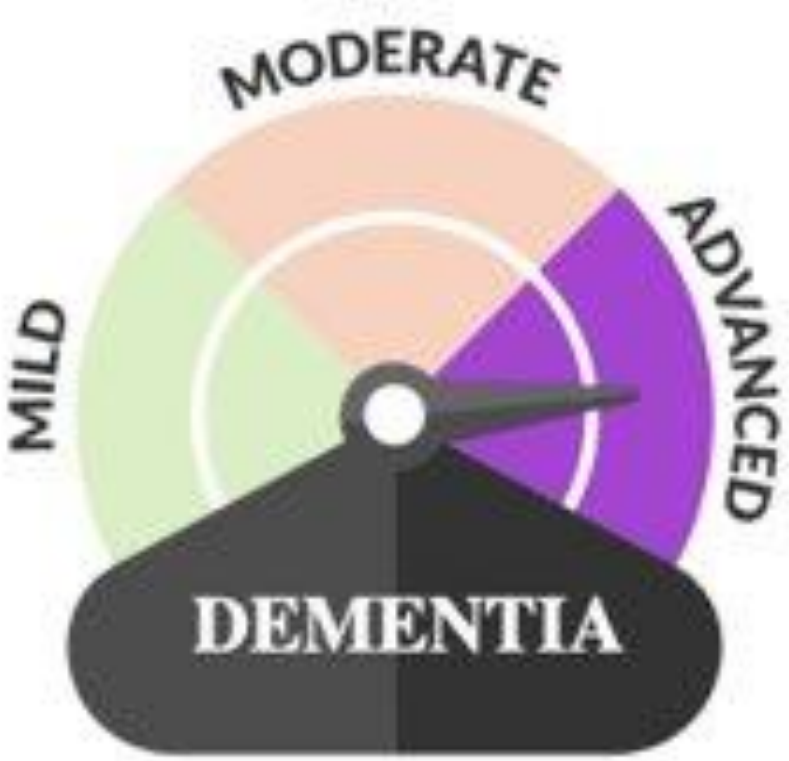



**Physical Abuse**

# Severe AD

Symptoms:

- Communication
- Mobility
- Swallowing




**Neglect**

# Figuring Out Neglect

EAGLE Roll Call Video Clip

# Figuring Out Neglect

- Victim
  - Hygiene including foot care
  - Wounds
  - Uncontrolled illness(es)
  - Functional status

Caregiver
  - Lack of follow up
  - Missed appointments
  - Disengaged
  - Incompetent (physical, emotional, intellectual)

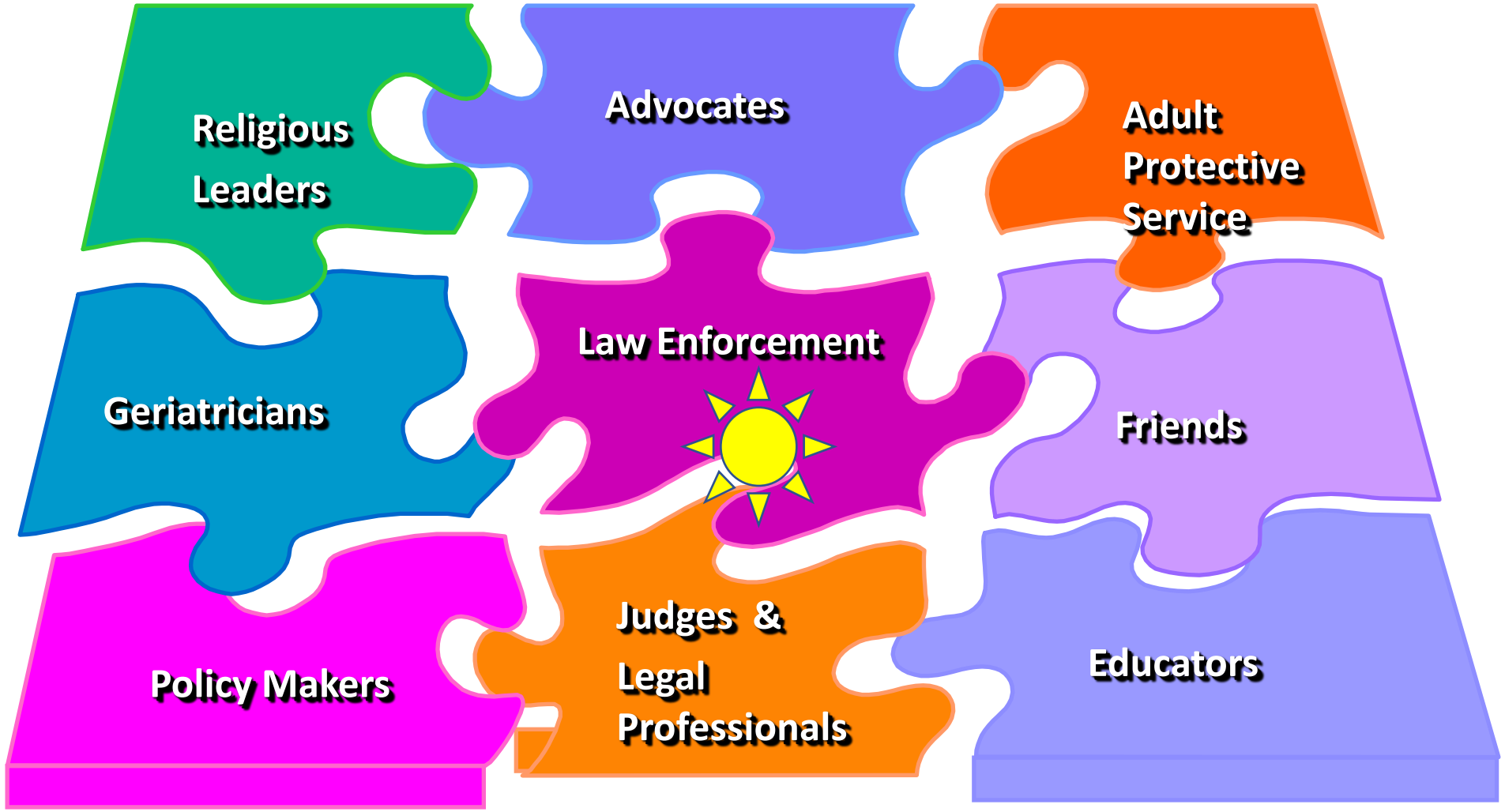
**Need to be cautious about excuses from the caregiver**

# Figuring Out Neglect: The Caregiver

- What are the caregiver's capabilities and limitations?
  - Physical
  - Emotional
  - Social
  - Financial

**Need to be cautious about excuses from the caregiver**

# Learn more about Multi-Disciplinary Teams MDTs in tomorrow's session



# Introducing EAGLE:

## A tool for professionals investigating cases of Elder Abuse

# Elder Abuse Facts

## Elder Abuse is Happening in Your Community

- The types of elder abuse include Physical, Psychological/ Emotional, Financial, Sexual, and Neglect
- As the population of older adults increases, so too will the number of elder abuse cases

## What's Next

Learn about the tools available on The Elder Abuse Guide for Law Enforcement

"*EAGLE is as important as your badge in your arsenal of tools*"

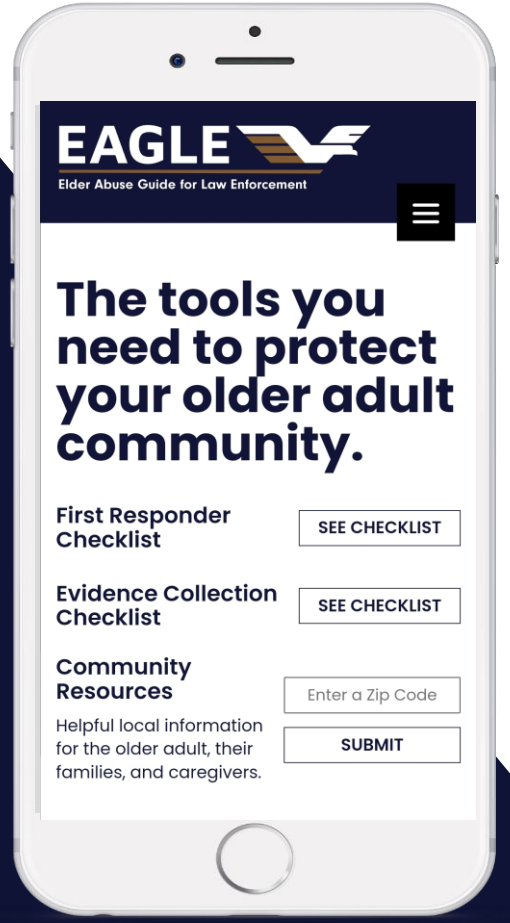
*Deputy Ron Gardner MS*

# Mobile Friendly
## Use it in the Field

### Pin to your cell phone

- Visit EAGLE on your mobile at **eagle.usc.edu**
- Select the three-lined icon in the top right, this will populate the drop-down menu
- Once you have the drop-down menu, select “Add to Mobile Home Screen”

## EAGLE on Mobile Device



# **Mobile Friendly**
Use it in the Field

[redacted]

# EAGLE Intro

**Development** | **Tools & Capabilities**

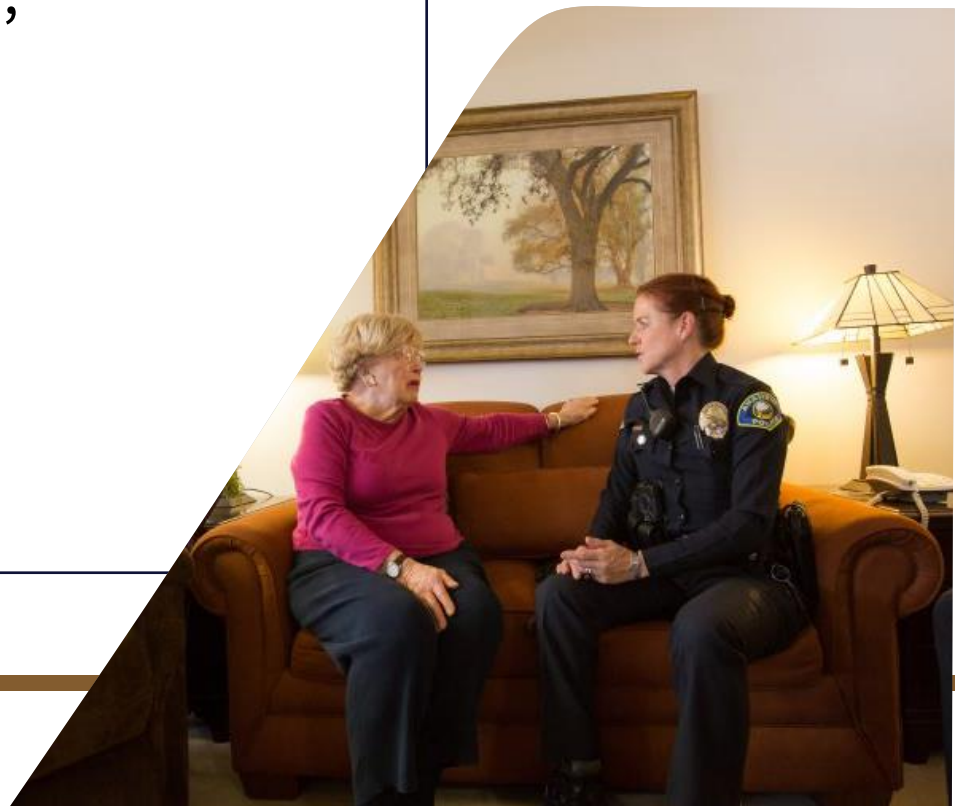
**EAGLE is a FREE tool that helps officers effectively identify and investigate potential Elder Abuse cases.**

- Funded by the Department of Justice (DOJ)
- Developed by elder abuse experts at the University of Southern California (USC)
- Cross tested by law enforcement departments across the country!

# EAGLE Intro

**Development** | **Tools & Capabilities**

- Quick reference Elder Abuse 101
- Versatile Elder Abuse identification, documentation, and investigation tools
- ZIP-code-based community resources locator
- State Specific Laws on Elder Abuse
- Roll Call Videos based on real life Elder Abuse cases



# EAGLE Site Tour

# EAGLE Resource:
# **First Responder's Checklist**

## First Responder Checklist

**Instructions for use:**

**Online**
Fill out online using your phone, tablet or laptop. Once completed, a PDF will be generated that you can download and print for your case file. Provide your email where indicated to send a copy of the completed PDF to your mailbox.

**Print**
Download and print a blank copy of this checklist now and take it with you when responding to a call.

Download Blank Checklist

**NOTE:**
No fields are required; skip what is not relevant. If you're unable to complete the form, use the '**Save and Continue**' link at the bottom of this page.

- **Printable**, **downloadable**, and can be **emailed** to yourself.
- Prompts officers to ask crucial questions regarding:
  - Older Adult Impairments
  - Medications and Medical Conditions
  - Independence Capacity
  - Signs of six forms of abuse
- **No data is EVER saved.**

**PDF Example**

EAGLE
Elder Abuse Guide for Law Enforcement

Date: _____ Time: _____ AM/PM
Case ID: _____
Victim's Name: _____
Address: _____
_____
Type of Call: _____
Exhibit #: _____

### Elder Abuse First Responder Checklist

**Are there other people present in the home or interview location?**
☐ Yes ☐ No ☐ Unknown

**Were other people present during the interview?**
☐ Yes ☐ No ☐ Unknown

**If yes, what is their relationship with the older adult?**
☐ Paid Caregiver
Note/ Name _____
☐ Family Member
Note/ Name _____
☐ Other
Note/ Name _____

| | | | | Additional Observations |
|---|---|---|---|---|
| Trouble hearing (e.g. hearing aid(s)) | ☐ Yes | ☐ No | ☐ Unknown | |
| Trouble seeing (e.g. wears glasses) | ☐ Yes | ☐ No | ☐ Unknown | |
| Do they seem to have memory trouble? | ☐ Yes | ☐ No | ☐ Unknown | |
| Do they seem to be confused? | ☐ Yes | ☐ No | ☐ Unknown | |
| Uses something to help with mobility (e.g. walker, cane, wheelchair) | ☐ Yes | ☐ No | ☐ Unknown | |
| What language(s) do they speak? List. | | | | |

**Hygiene and Appearance**
*Take note of the following:*

| | | | | |
|---|---|---|---|---|
| Dressed appropriately | ☐ Yes | ☐ No | ☐ Unknown | |
| Dirty or bad odors | ☐ Yes | ☐ No | ☐ Unknown | |
| Stains on clothing | ☐ Yes | ☐ No | ☐ Unknown | |
| Obvious wounds | ☐ Yes | ☐ No | ☐ Unknown | |

**List any known medical problems:**
_____
_____
_____

**List or take a photo of any medication they take (check expiration date(s)):**
_____
_____
_____

**Can the older adult do the following things independently (without assistance)?**

| | | | |
|---|---|---|---|
| Call for assistance if needed? | ☐ Yes | ☐ No | ☐ Unknown |
| Get out into the community unassisted? | ☐ Yes | ☐ No | ☐ Unknown |
| Access food and water? | ☐ Yes | ☐ No | ☐ Unknown |

# EAGLE Resource:
# **State Specific Laws**

- Assists Law Enforcement, Adult Protective Services and other social service agencies
- Provides:
  - Penal Codes
  - Statutes
  - State Mandated Reporting
  - Consumer Protection Statutes

## State of District of Columbia

Guam | Puerto Rico | District of Columbia

## Charges

### Caregiver Neglect Laws -

**Criminal Negligence - Vulnerable adult or elderly person**
§ 22-934
Website

**Obstructing, preventing, or interfering with reports to or requests for assistance from law enforcement agencies, medical providers, or child welfare agencies**
§ 22-1931
Website

**Kidnapping - Definition and penalty; conspiracy**
§ 22-2001
Website

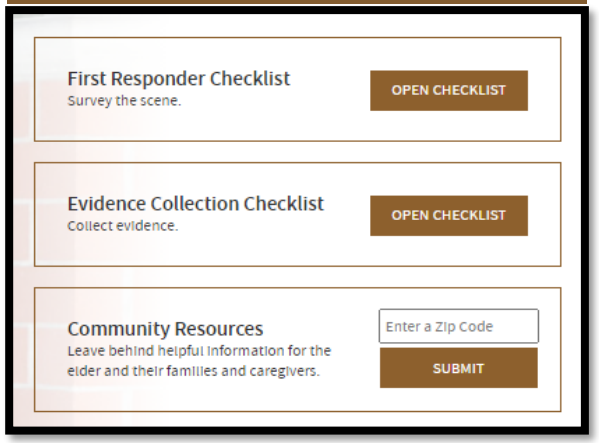
### Emotional/Psychological Laws +

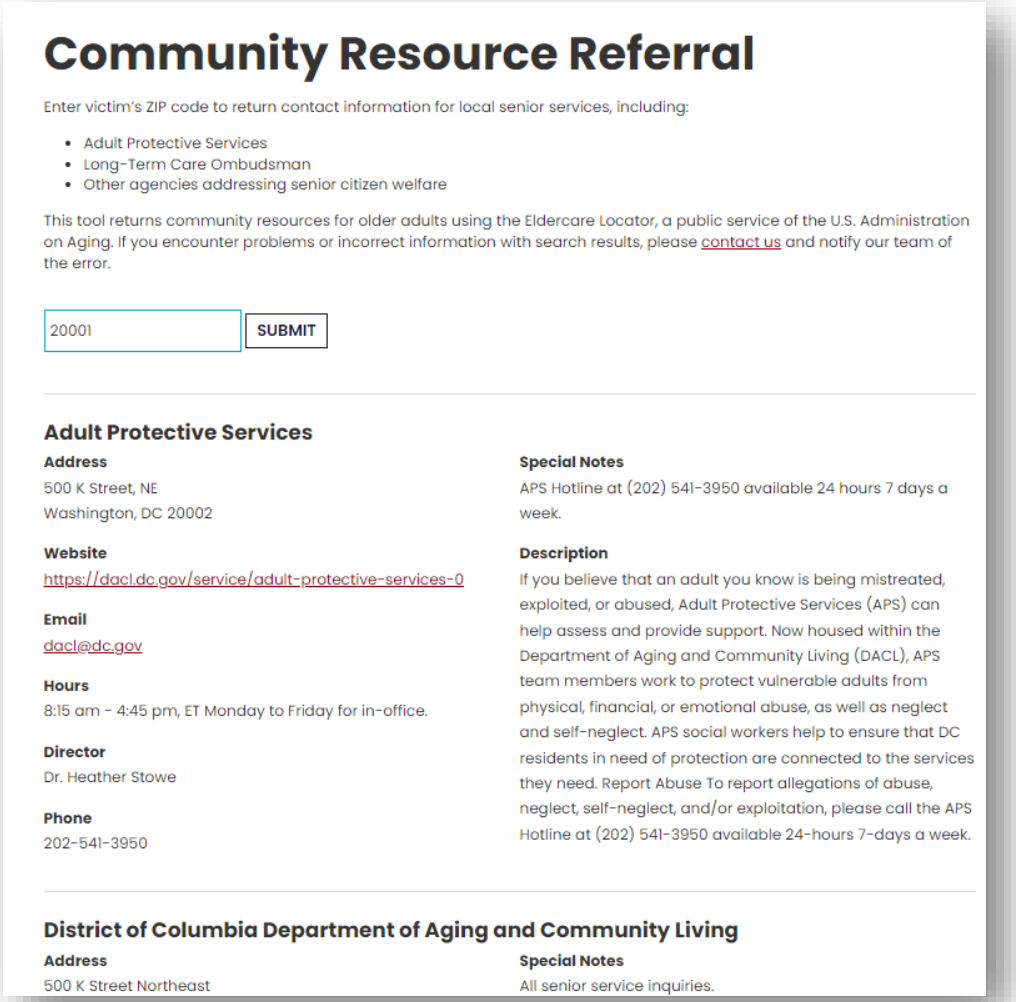
### Financial Exploitation Laws +

# EAGLE Resource:
# **Community Resource Referral**

- Community resources based on **zip code**
- Provides contact details and description of services for:
  - Adult Protective Services
  - Long-term Care Ombudsman
  - Rural Resources
  - Other agencies addressing welfare of older adults

**Home Screen View**



## Community Resource Referral

Enter victim's ZIP code to return contact information for local senior services, including:

- Adult Protective Services
- Long-Term Care Ombudsman
- Other agencies addressing senior citizen welfare

This tool returns community resources for older adults using the Eldercare Locator, a public service of the U.S. Administration on Aging. If you encounter problems or incorrect information with search results, please contact us and notify our team of the error.

20001 SUBMIT

### Adult Protective Services

**Address**
500 K Street, NE
Washington, DC 20002

**Website**
https://dacl.dc.gov/service/adult-protective-services-0

**Email**
dacl@dc.gov

**Hours**
8:15 am - 4:45 pm, ET Monday to Friday for in-office.

**Director**
Dr. Heather Stowe

**Phone**
202-541-3950

**Special Notes**
APS Hotline at (202) 541-3950 available 24 hours 7 days a week.

**Description**
If you believe that an adult you know is being mistreated, exploited, or abused, Adult Protective Services (APS) can help assess and provide support. Now housed within the Department of Aging and Community Living (DACL), APS team members work to protect vulnerable adults from physical, financial, or emotional abuse, as well as neglect and self-neglect. APS social workers help to ensure that DC residents in need of protection are connected to the services they need. Report Abuse To report allegations of abuse, neglect, self-neglect, and/or exploitation, please call the APS Hotline at (202) 541-3950 available 24-hours 7-days a week.

### District of Columbia Department of Aging and Community Living

**Address**
500 K Street Northeast

**Special Notes**
All senior service inquiries.

# EAGLE Resource:
# **NEW EAGLE Tactical Training**

- Elder Abuse in Your Community
- Types of Elder Abuse
- Review of Elder Abuse Case Studies
- EAGLE Site Tour
- Special Topics – Coming Soon

**Training Page View**

# EAGLE Resource:
# **Elder Abuse and Neglect Documentation Tool**

**PDF Example**

## Elder Abuse and Neglect Documentation Tool

Injury documentation tool for law enforcement to document injury-related physical findings for older adults

**Victim's Name:** **Report #:**

**DOB:** **Time:** **Officer's Name (print):**

**Write statements here and in report (use direct quotes):**

Victim stated:

Suspect stated:

**Document the following in your report:**

- Type of injury (cut, abrasion, bruise, burn, rash, etc.)
- Location of injury
- Size of injury
- Presence of swelling, tenderness
- Presence of blood, pus, odor, open sore
- Complaints of pain

Examples: 3-inch long deep cut, still bleeding; 2-inch dark purple bruise around right eye, eyelid swollen shut

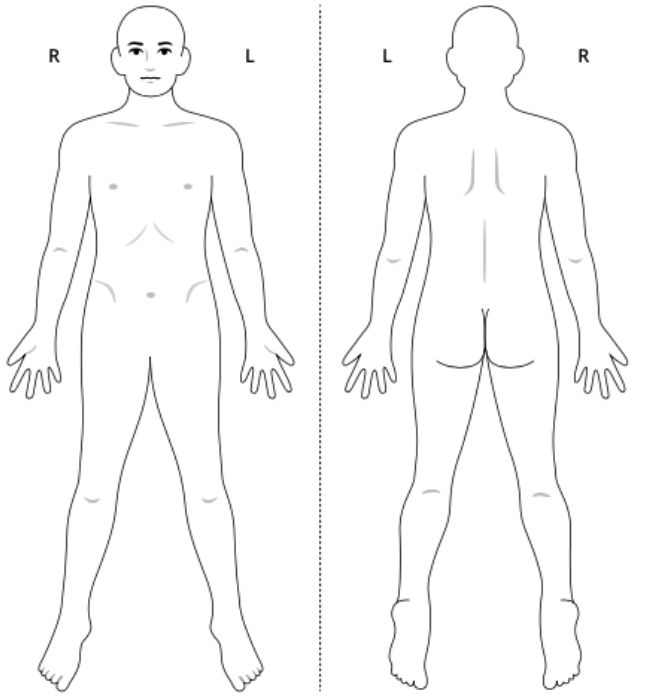
*Look at all parts of the body when elder abuse is suspected, including: heels, buttocks, chest, back, scalp, etc.*

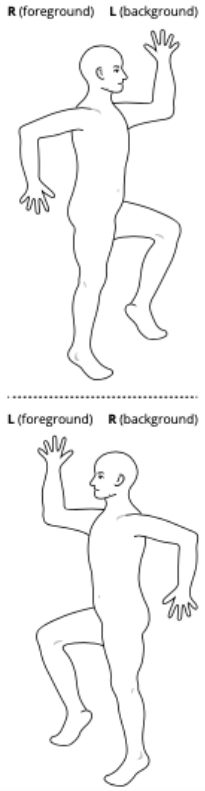
***Photograph physical injuries. In a case of suspected sexual abuse, follow the appropriate protocols.***

EAGLE
Elder Abuse Guide for Law Enforcement

**Document each physical observation on the body diagrams followed by a description.**

Note all areas where pain is present even if there is no visible evidence of injury.

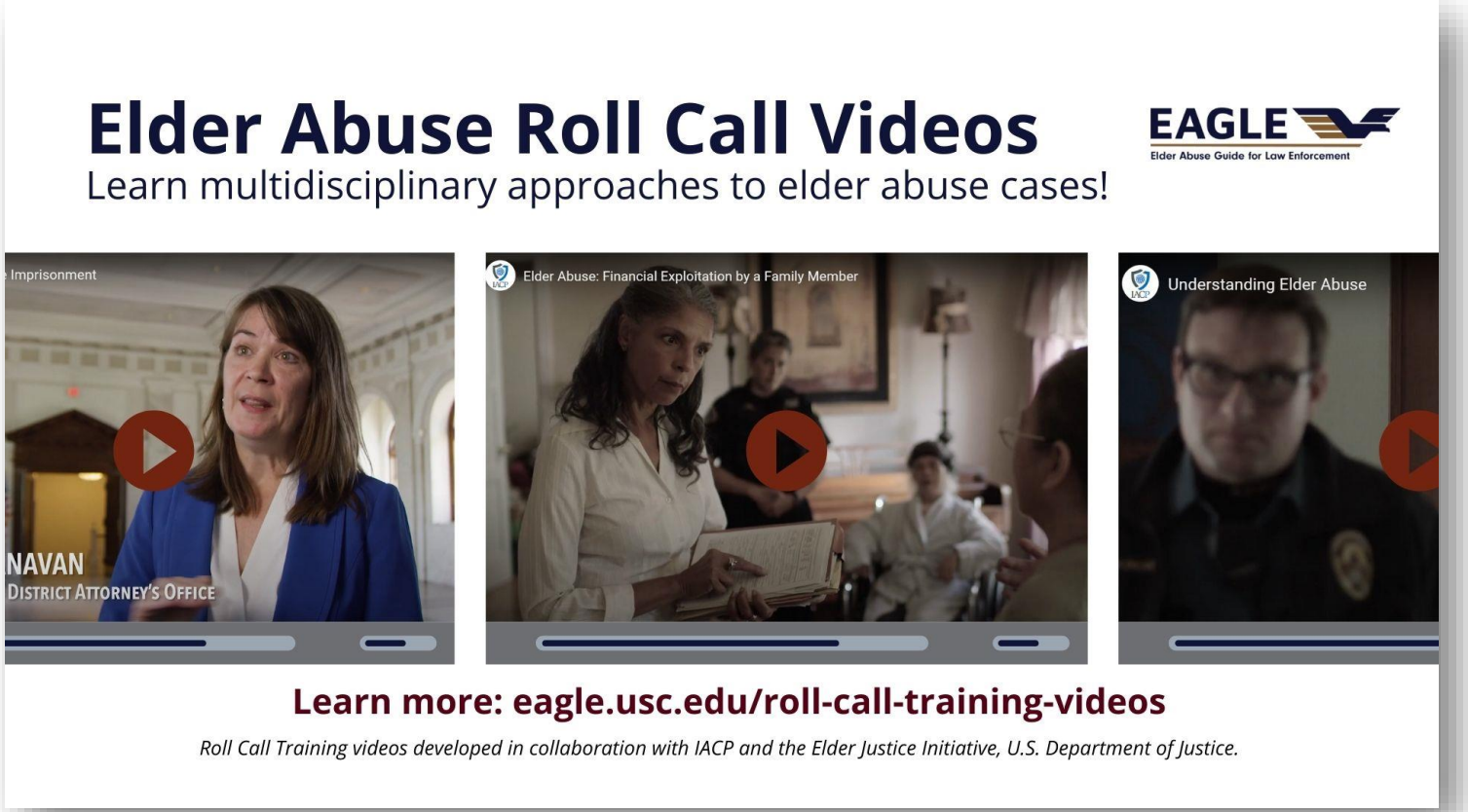



Print page at 100% for accurate measurement in centimeters and inches.

# **EAGLE Resource:** Roll Call Videos

- The IACP in collaboration with Elder Justice Initiative, U.S. Department of Justice, has developed a **six-part roll call video series**
  - Identify signs of elder abuse
  - Recognize evidence that can lead to the successful prosecution
  - Working with others (MDT's)
- Based off **actual cases from around the United States:**
  - Understanding Elder Abuse
  - False Imprisonment
  - Financial Abuse by a Family Member
  - Financial Abuse by a Stranger
  - Neglect
  - Physical Abuse
  - Interviewing Older Adults



# EAGLE Tools

## Key Takeaways

- Access EAGLE in the field on your mobile device, or in the office via desktop at **eagle.usc.edu**
- EAGLE is a FREE tool and has key resources to add to your toolkit:
  - **State Specific Laws** - Your state's penal codes & statutes on elder abuse.
  - **First Responder's Checklist** - Document the signs of abuse, fillable online and as a pdf. No data is saved.
  - **Evidence Collection Checklist** - Keep evidence organized. Created with prosecutor insight. Great for MDTs.
  - **Community Resource Referral Tool** - Enter a zip code for local information on resources
  - **Training Opportunities** - IADLEST certified & POST available
  - **Roll Call Videos** - Based off real-life cases of elder abuse
  - **Elder Abuse Overview** - Covers seven types of abuse, questions to consider & actions to take

# A Special Thank You To...

Detective Cherie Hill
Anaheim Police Department
Anaheim, CA

# Cases:

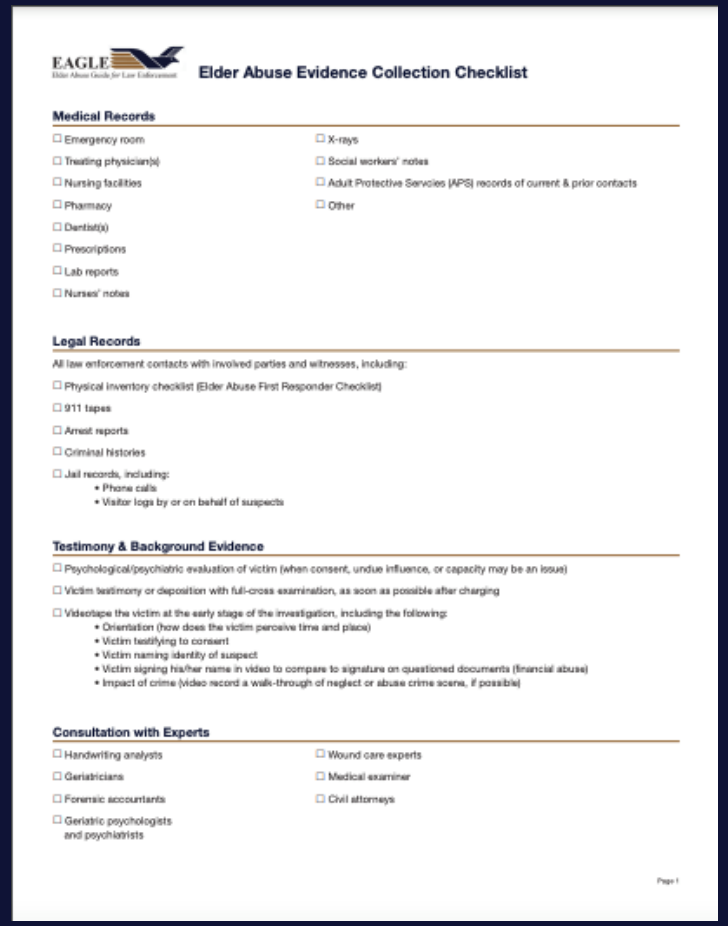
## Putting knowledge into practice

# Case 1

- 88-year-old female
- Son calls 911 reporting death of his mother in their home
- Excessive hoarding in home except in room where mom was found
- Coroners remove body before detectives arrive
- CSI Photos show:
  - Massive bed sore on rear
  - Bruises on breast, arm, and ankle

# Case 1: EAGLE Resources

- Evidence Collection Checklist
- Photography Tips
- Documenting Bed Sores



EAGLE
Elder Abuse Guide for Law Enforcement

**Elder Abuse Evidence Collection Checklist**

**Medical Records**

- ☐ Emergency room
- ☐ Treating physician(s)
- ☐ Nursing facilities
- ☐ Pharmacy
- ☐ Dentist(s)
- ☐ Prescriptions
- ☐ Lab reports
- ☐ Nurses' notes
- ☐ X-rays
- ☐ Social workers' notes
- ☐ Adult Protective Services (APS) records of current & prior contacts
- ☐ Other

**Legal Records**

All law enforcement contacts with involved parties and witnesses, including:

- ☐ Physical inventory checklist (Elder Abuse First Responder Checklist)
- ☐ 911 tapes
- ☐ Arrest reports
- ☐ Criminal histories
- ☐ Jail records, including:
  - Phone calls
  - Visitor logs by or on behalf of suspects

**Testimony & Background Evidence**

- ☐ Psychological/psychiatric evaluation of victim (when consent, undue influence, or capacity may be an issue)
- ☐ Victim testimony or deposition with full-cross examination, as soon as possible after charging
- ☐ Videotape the victim at the early stage of the investigation, including the following:
  - Orientation (how does the victim perceive time and place)
  - Victim testifying to consent
  - Victim naming identity of suspect
  - Victim signing his/her name in video to compare to signature on questioned documents (financial abuse)
  - Impact of crime (video record a walk-through of neglect or abuse crime scene, if possible)

**Consultation with Experts**

- ☐ Handwriting analysts
- ☐ Geriatricians
- ☐ Forensic accountants
- ☐ Geriatric psychologists and psychiatrists
- ☐ Wound care experts
- ☐ Medical examiner
- ☐ Civil attorneys

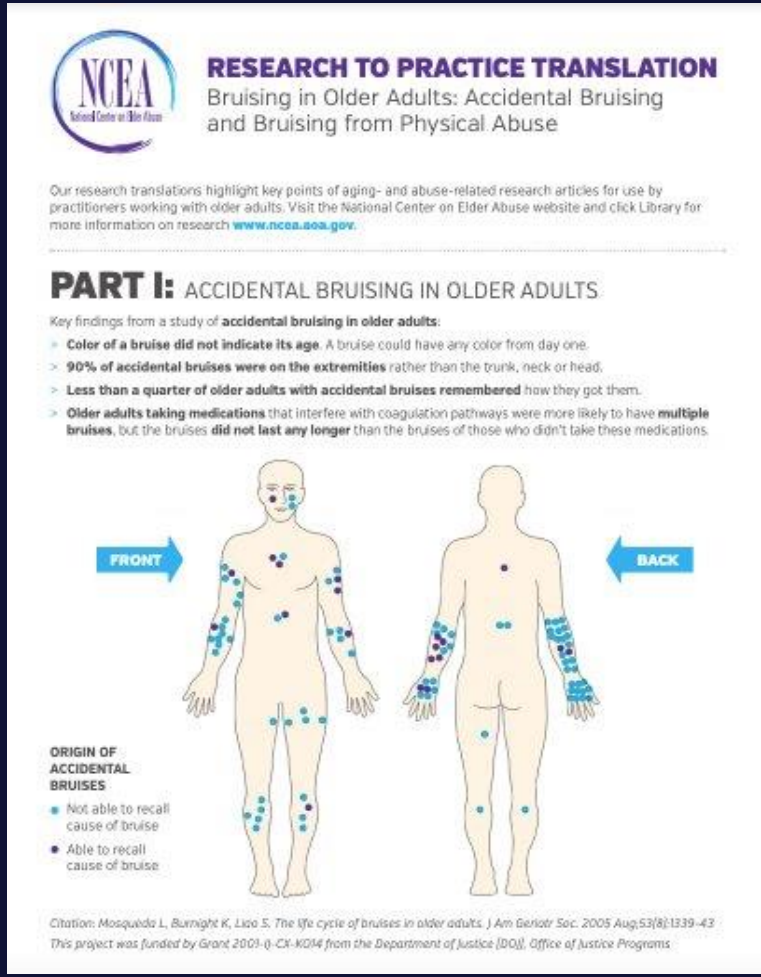
Page 1

# Case 2

- 72-year-old female with Dementia
- Visits police station with family to retract a previous report of physical abuse
- Visible bruise on wrist
- Family insists cereal box fell on her wrist causing bruise
- Physician in Multidisciplinary Team conducts:
  - Cognitive Capacity Assessment
  - Physical Assessment

# Case 2: EAGLE Resources

- Bruising Identification Chart
- Community Resource Referral
- Working with Others to Build a Case
  - Social Services
  - Physician
  - Prosecutor



NCEA National Center on Elder Abuse

**RESEARCH TO PRACTICE TRANSLATION**

Bruising in Older Adults: Accidental Bruising and Bruising from Physical Abuse

Our research translations highlight key points of aging- and abuse-related research articles for use by practitioners working with older adults. Visit the National Center on Elder Abuse website and click Library for more information on research www.ncea.aoa.gov.

**PART I:** ACCIDENTAL BRUISING IN OLDER ADULTS

Key findings from a study of **accidental bruising in older adults**:

- **Color of a bruise did not indicate its age**. A bruise could have any color from day one.
- **90% of accidental bruises were on the extremities** rather than the trunk, neck or head.
- **Less than a quarter of older adults with accidental bruises remembered** how they got them.
- **Older adults taking medications** that interfere with coagulation pathways were more likely to have **multiple bruises**, but the bruises **did not last any longer** than the bruises of those who didn't take these medications.

FRONT

BACK

**ORIGIN OF ACCIDENTAL BRUISES**

- Not able to recall cause of bruise
- Able to recall cause of bruise

*Citation: Mosqueda L, Burnight K, Liao S. The life cycle of bruises in older adults. J Am Geriatr Soc. 2005 Aug;53(8):1339-43*

*This project was funded by Grant 2001-0-CX-K014 from the Department of Justice (DOJ), Office of Justice Programs*

# Case 3

- 78-year-old female with Moderate Dementia
- Woman alleges she was raped
- Her claims dismissed by family and nursing staff at hospital
- Physical Assessment reveals:
  - Oral bruising in mouth and throat
  - Anal tears

# Case 3: EAGLE Resources

- Elder Abuse and Neglect Documentation Tool
- Interviewing Older Adults

**Elder Abuse and Neglect Documentation Tool**

Injury documentation tool for law enforcement to document injury-related physical findings for older adults

**Victim's Name:** **Report #:**

**DOB:** **Time:** **Officer's Name (print):**

**Write statements here and in report (use direct quotes):**

Victim stated:

Suspect stated:

**Document the following in your report:**

- Type of injury (cut, abrasion, bruise, burn, rash, etc.)
- Location of injury
- Size of injury
- Presence of swelling, tenderness
- Presence of blood, pus, odor, open sore
- Complaints of pain

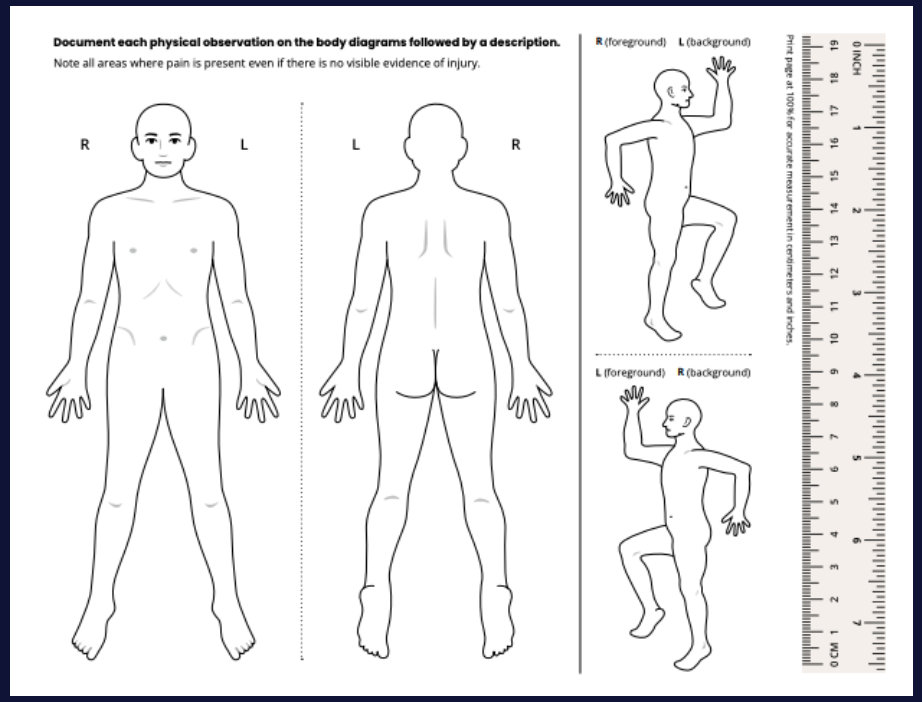
Examples: 3-inch long deep cut, still bleeding; 2-inch dark purple bruise around right eye, eyelid swollen shut

*Look at all parts of the body when elder abuse is suspected, including: heels, buttocks, chest, back, scalp, etc.*

***Photograph physical injuries. In a case of suspected sexual abuse, follow the appropriate protocols.***

EAGLE

Elder Abuse Guide for Law Enforcement



**Document each physical observation on the body diagrams followed by a description.**

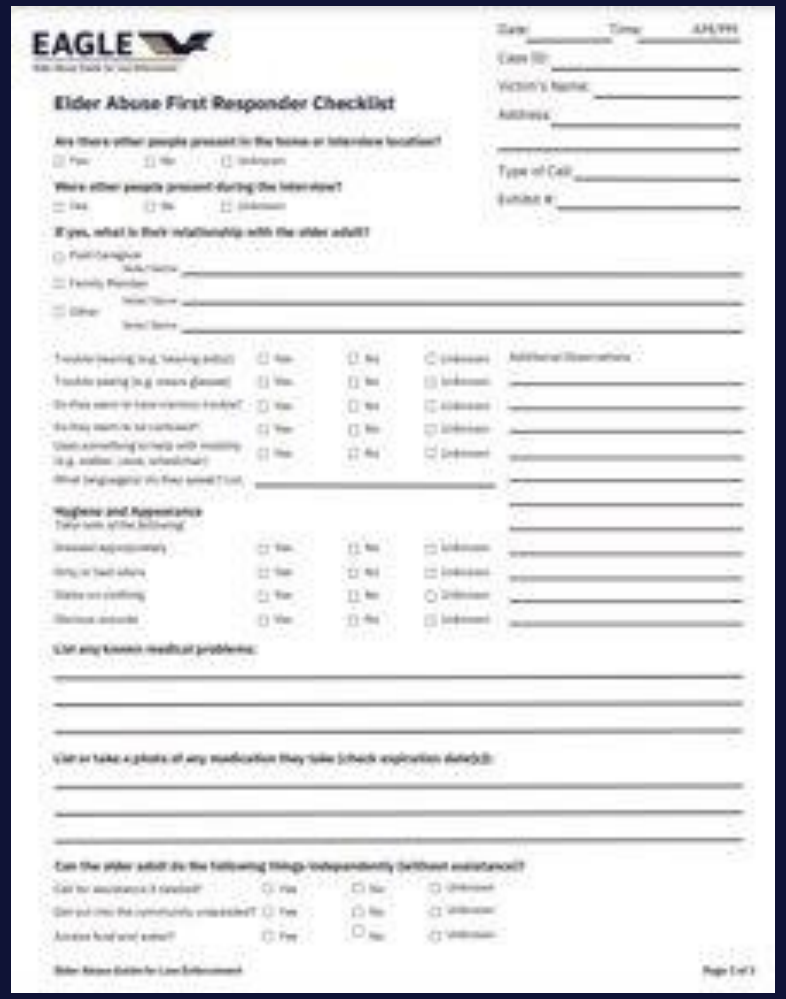
Note all areas where pain is present even if there is no visible evidence of injury.

# Case 4

- 85-year-old male
- Height: 6ft Weight: 110lbs
- 911 called to hospital by social worker
- Malnourished with large bed sore on backside
- Granddaughter is Court Appointed Conservator
- Physician in Multidisciplinary Team conducts Medical Records Review

# Case 4: EAGLE Resources

- First Responder Checklist
- Documenting Bed Sores
- Working with Others to Build a Case


EAGLE

Elder Abuse First Responder Checklist

# Case 5

- 73-year-old female with full capacity
- Code Enforcement for Hoarding Situation

- Separate occasion, 911 called due to a fall
- Adult daughter with mental illness
- Consult with prosecutor

# Case 5: EAGLE Resources

- Community Resource Referral
- Working with Others to Build a Case
  - Prosecutor
  - Mental Health Specialists

**Community Resources**

Helpful local information for the older adult, their families, and caregivers.

Enter a Zip Code

SUBMIT

# Thank you!

**The public expects so much from Law Enforcement and we *thank you* for taking the time to learn more about Elder Abuse**

**This presentation has taken us through**

- **An overview of aging and elder abuse**
- **Techniques for interviewing, documenting, working with physicians**
- **Understanding EAGLE**
- **Application of EAGLE in real cases**

**We hope the tools provided here will support in your important work.**
**The EAGLE team is here for you.**
**We can be reached at: eaglehelp@usc.edu**

# Connect with Us

NCEA
National Center on Elder Abuse

ncea.acl.gov

Training Resources on Elder Abuse

trea.usc.edu

USC Center on Elder Mistreatment

eldermistreatment.usc.edu

EAGLE
Elder Abuse Guide for Law Enforcement

eagle.usc.edu
eaglehelp@med.usc.edu

# Elder abuse resources

- EAGLE
- NW3C EAGLE Online Training
- Apply for In-person EAGLE Training: EAGLE Training Application
- Sign up to receive the EAGLE Newsletter
- EAGLE Tactical Training
- Annotated Bibliography: Victim Capacity and Neuropsychology
- Roll Call videos (EJI)
- SAFE (Safe Accessible Forensic Interviewing for Elders) Training
- Approaching Alzheimer's: First Responder Training Program (Alzheimer's Association)

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# ELDER FINANCIAL EXPLOITATION AND THE CRIMINAL JUSTICE SYSTEM

FEBRUARY 7, 2023

DEPARTMENT OF JUSTICE
Elder Justice INITIATIVE

National Elder Justice Law Enforcement Summit

# Agenda

- General facts about elder financial exploitation
- A detective's perspective
- A prosecutor's perspective
- What we need
- Conclusion

# Older adults in the U.S. lose approximately $28 billion per year to perpetrators of financial exploitation.

AARP BankSafe Initiative: The Scope of Elder Financial Exploitation: What It Costs Victims (June 2023)

For every one case
that is reported,

1

# Elder financial exploitation is under-reported.

another forty-three cases
never come to light.

43

# Why Involved Professionals Often Don't Report

- Difficulty in determining whether it's financial exploitation or free choice
  - Lack of awareness of, training on:
    - What constitutes financial exploitation
    - Dementia
    - How to investigate these cases
- Fear of intruding on victim's privacy
- Fear of losing victim's business
- Fear of liability
- Victim may discourage reporting

# Why Victims Often Don't Report

- Fear of repercussions of reporting
  - Losing their home
  - Losing their independence
  - Losing their relationship with perpetrator
  - Retaliation by perpetrator
- Emotional dependence on perpetrator
- Shame
- Lack of recognition of the problem due to cognitive impairment

# Two Main Risk Factors for Elder Financial Exploitation

- Dementia
- Social isolation

# Even When Reported, Elder Financial Exploitation is Under-Investigated and Under-Prosecuted

- Due to:
  - Lack of coordination between disciplines:
    - Law enforcement
    - Prosecutors
    - Health care providers
    - Financial services industry
    - Adult Protective Services
    - Civil legal system
  - Lack of trained, dedicated detectives and prosecutors

“… Law enforcement is missing or overlooking a lot of cases. It is imperative that officers know the signs of elder abuse and take the time to investigate suspected cases.”

--Tim Hardiman, former Commanding Officer, NYPD

# ELDER FINANCIAL EXPLOITATION FROM A DETECTIVE'S PERSPECTIVE

DEPARTMENT OF JUSTICE
Elder Justice INITIATIVE

National Elder Justice Law Enforcement Summit

# What we are seeing in the field: Law Enforcement

1. **Using older adult's information to apply for loans, credit cards, etc.**

   Ex: Son seemed 'helpful' by always retrieving fathers mail for him daily. Son ended up in jail and father soon realized that there were credit cards under his name that he had no recollection of.

2. **Taking older adult's money/assets without knowledge**

   Ex: Granddaughter snuck money each time she visited her grandmother and eventually started to take pieces of jewelry and other valuables without permission.

3. **Caregivers with access to older adult's credit cards/online accounts are making purchases for themselves**

   Ex: Gentleman had a caregiver who made shopping trips for him on a weekly basis. Although $200 a week would seem normal for some, after some conversation, it was discovered that the gentleman was 90% tube fed and caregiver was making weekly gift card purchases at grocery store for herself.

# What we are seeing in the field: Law Enforcement (cont'd)

4. **Caregivers with access to older adult's credit cards/online accounts are making purchases for themselves**

   Ex: Gentleman had a caregiver who made shopping trips for him on a weekly basis. Although $200 a week would seem normal for some, after some conversation, it was discovered that the gentleman was 90% tube fed and caregiver was making weekly gift card purchases at grocery store for herself.

# What we are seeing in the field: Law Enforcement (cont'd)

## 5. Handyman Services

Ex: Handyman stops by older woman's home and took payment upfront without ever performing service.

Landscaper stopped by widowed women to 'help her out' because he 'cares' and noticed her landscaping was being neglected. Friends immediately contact police with concerns. Women is cognitively failing, physically frail and grieving. Landscaper returns that week, asks to use the bathroom and notices a shrine of her late son & husband. He fits the age of the son. He tells her he couldn't finish the job that day but looks forward to coming back tomorrow, hugs her and asks if he can call her "mom". She almost immediately alienates her friends, cancels her doctors appointments, will not speak with APS and will only talk with her new landscaper friend. Within 6 months she purchases him a new truck and excavator for his business, paid off his student loans and purchased a home for $365,000 with the agreement that he would build an apartment above the garage for her so she didn't have to be alone. She is adamant that she is not a victim and uncooperative. She passes away, two years later, and the apartment was still not built.

# What we are seeing in the field: Law Enforcement (cont'd)

6. Abuse of Power of Attorney: Page will explain more
7. Perpetrators hiding behind creditable professions/titles/images

   Ex: Pastor case

   Ex: Attorney case

Grand jury indicts Wells pastor, charges allege elderly exploitation

Posted November 14, 2017 Updated November 8, 2019 TAMMY WELLS

3 min read Font size + Gift article Share Print

ALFRED — A Wells man who is listed as a senior pastor at the Wells Branch Baptist Church, also known as Trinity Coastal Community Church, faces multiple charges in connection with the alleged exploitation of an incapacitated elderly Kennebunk woman in May.

Peter Leon, 66, of Clark Road, is scheduled to make a first

8. Don't let lack of prosecution discourage you.
9. Our goal in law enforcement (with the victimization of our older adults) should not only be about prosecution but:
   - securing victim safety
   - proving that we are taking these crimes seriously
   - showing the communities we protect that we are there for them

**Dismissal of charges against a former Wells pastor comes as a shock to ex-neighbors and parishioners**

Peter Leon, 72, was charged in 2017 for allegedly exploiting a 66-year-old woman he met volunteering as a pastor for a nursing home. But prosecutors said earlier this month that all the charges would be dropped.

# Case: William Dawson, Maine

## Attorney Dawson acted as agent for 85- and 97-year-old clients who resided in nursing home

Entitled to reasonable compensation for his services but:

Over a period of 4 years while Dawson managed these client's property, he billed and paid himself for unreasonable and possibly fictitious services at$250 an hour for driving to clients' homes, picking up mail, paying bills.

Almost $500,000 with in question

**Civil or Criminal?**

# Answer: Case - William Dawson, Maine

- Clients or their estates could have civilly sued Dawson for his actions but those same actions also had criminal repercussions:
  - Pled guilty to 2 counts of felony theft and 3 counts of failing to pay state income tax
  - Sentenced to 5 years in prison, all but 2 ½ suspended
  - Ordered to pay substantial restitution

There are often aspects in your case where other agencies can become involved.

BELFAST, Maine (WABI) - A former lawyer from Belfast who stole nearly $500,000 from two elderly clients was in court Friday trying to end his probation.

A judge denied that request.

William Dawson pleaded guilty in 2016 to stealing $482,000.

# ELDER FINANCIAL EXPLOITATION FROM A PROSECUTOR'S PERSPECTIVE

DEPARTMENT OF JUSTICE
Elder Justice INITIATIVE

National Elder Justice Law Enforcement Summit

# Responses We Often Hear to Reports of Elder Financial Exploitation

- "No victim, no case."
- "Most of these cases are scams."
- "It's less serious than other forms of elder abuse."
- "It's a civil matter."

# “No victim, no case.”

- Law enforcement and prosecutors often believe:
  - If a victim suffers from dementia, they can’t testify at trial
  - If a victim can’t testify at trial, the case can’t be pursued

# Dementia and Competency to Testify

- Many people with a dementia diagnosis are able to understand and answer questions, and can testify effectively
- People with dementia often retain memory of emotional/traumatic events.
  - Wiglesworth, A. & Mosqueda, L. (2009) "People with Dementia as Witnesses to Emotional Events," NCJ 234132, available at https://www.ncjrs.gov/pdffiles1/nij/grants/234132.pdf

# We Can Often Prove an Elder FE Case Without the Victim, Using:

- Victim's prior statements to others
  - That are hearsay exceptions
  - Prior sworn testimony
  - Videotaped interview of victim by detective to capture degree of cognitive impairment
- Victim's medical records
- Financial analysis of victim's and suspect's accounts
- Power of Attorney document
- Admissions of defendant to others

# “Most of these cases are scams.”

- The majority of elder financial exploitation cases (72%) are committed by known others, such as friends, family members, or caregivers.
  - AARP BankSafe Initiative: The Scope of Elder Financial Exploitation: What It Costs Victims (June 2023)

# "Elder financial abuse is less serious than other forms of elder abuse."

- Even mild abuse, neglect, or exploitation increases premature deaths in the elderly by 300%.
  - Lachs MS, Williams CS, O'Brien S, Pillemer KA, Charlson ME. The Mortality of Elder Mistreatment. JAMA. 1998;280(5):428-432.

# "It's a civil matter."

- Virtually every case that is criminal is also civil
  - The question is whether the elements of he crime can be proved beyond a reasonable doubt
- Many cases are improperly deemed "civil" due to lack of training
- Elder financial cases are commonly mislabeled as civil when:
  - Perpetrator uses Power of Attorney (POA) to steal victim's assets
  - Perpetrator uses deception or fraud to steal victim's assets

# Abuse of Power of Attorney

- An attorney-in-fact cannot make a loan, payment, or gift to self unless specifically authorized in the POA
- An attorney-in-fact who uses the principal's assets for themselves without specific authorization in the POA commits Theft
- Is often the easiest type of theft case to prove

# Theft by Deception or Fraud

- A person who lies to another and obtains that person's assets in response to those lies, commits Theft
- We must show the victim gave over their assets in reliance on the perpetrator's lies

# THEFT BY DECEPTION CASE EXAMPLE: MARIANA COOPER

# Theft by Deception Case Example: Mariana Cooper

- 86 years old, recently widowed. Daughter from whom she'd been estranged is dying of cancer.
- Meets Janet Bauml through a neighbor
- Bauml is self-employed as a "personal organizer"
- Bauml quickly cultivates a close, mother-daughter relationship with Mariana
- Eventually convinces Mariana to allow her to assist her with her finances

# Case Example: Mariana Cooper (cont'd)

- Eventually begins to ask Mariana for loans she says are to:
  - Pay for son's treatment for his drug addiction
  - Pay for her own therapies and medical treatment due to abusive childhood
  - Feed and clothe her children
- Promises she'll repay Mariana with money she says she'll receive from accident insurance settlement and payout from new job
- Over time, becomes bolder, more emotional with her requests

# Case Example: Mariana Cooper (cont'd)

- Mariana writes Bauml a check for each requested amount
- Over time, drains most of her bank accounts and exhausts credit
- Bauml then assists her in obtaining reverse mortgage on her home
- Mariana becomes increasingly afraid to refuse Bauml's requests. Fears she will never be repaid, will lose friendship.
- After three years, Mariana becomes desperate, begins to insist on repayment
- Bauml disappears

# Case Example: Mariana Cooper (cont'd)

- Panicked, Mariana tells her granddaughter
- Granddaughter discovers that over a 3+ year period, Mariana wrote 25 checks to Bauml amounting to over $217,000
- Granddaughter calls police
- Patrol takes a report but sergeant does not assign a detective
- After months of complaints by granddaughter, a detective is assigned and the investigation begins

# Case Example: Mariana Cooper (cont'd)

- The investigation reveals:
  - Bauml's son's drug treatment was paid for by the State
  - Bauml had health insurance through the State. Her medical care consisted of treatment for an underactive thyroid. She did frequent a psychic.
  - Bauml had some income from her work as an organizer and selling cosmetics
  - Bauml spent much of Mariana's money on expensive clothes, dining out, and trips

# Case Example: Mariana Cooper (cont'd)

- Bauml had not been in an accident that would result in an insurance payment
- Bauml's job would not be making her any large payouts

- An evaluation of Mariana's cognitive capacity concludes that she suffers from frontotemporal dementia
- We file multiple charges of Theft by Deception (Fraud)
- Case goes to trial

# Case Example: Mariana Cooper (cont'd)

- State's witnesses:
  - Patrol officer
  - Detective
  - Mariana
  - Granddaughter
  - Capacity evaluator
  - Financial analyst
- Defense witnesses:
  - Bauml's children
  - Mariana's doctor

# Case Example: Mariana Cooper (cont'd)

- Verdict:
  - Guilty of ten counts of Theft in the First and Second Degrees, by Deception
  - Major Economic Offense Aggravator also found
- Sentence: 43 months in prison

*Financial Abuse of the Elderly: Sometimes Unnoticed, Always Predatory*

Retiring
By ELIZABETH OLSON NOV. 27, 2015

Mariana Cooper, 86,with her granddaughter, Amy Lecoq, 39. Ms. Cooper was bilked out of much of her savings by someone she considered a friend. Ruth Fremson/The New York Times

**Retiring**
Examining the challenges and opportunies of life in retirement.

- Migrant Workers in Recreational Vehicles OCT 21
- The Future of Retirement Communities: Walkable and Urban OCT 14
- How to Improve Your Retirement Income if You Haven't Saved OCT 7
- Honoring a Loved One With a Charitable Fund SEP 30
- The Doctor Is In. In Your House, That Is. SEP 23

See More »

# What We Need to Properly Respond to These Crimes

- 911 dispatchers trained to recognize and respond to elder abuse
- Patrol officers trained to recognize and respond to elder abuse
- Trained, dedicated elder abuse detectives
- Trained, dedicated elder abuse prosecutors
- Collaboration and coordination with other key disciplines
- Financial analysts or forensic accountants to analyze financial records
- Experts in cognitive capacity to evaluate victims

*OVW's Abuse in Later Life Grant*

# What We Need to Do--Law Enforcement

*Remember older victims of Financial Exploitation suffer losses that are irreversible*

- Be more proactive
  - Stop the victimization BEFORE it starts!
  - Be present, approachable and engage in the community
  - Build credibility with the community BEFORE you are needed
- Stay educated and aware of statutes
  - States/jurisdictions are different.
  - Know your local laws and the current victimization trends in your area.
- Get connected to other professions ASAP
  - Knowing the resources within your jurisdiction and creating contacts is vital to being prepared to properly respond to these cases
  - Develop relationships with your District Attorney

# What We Need to Do--Law Enforcement (cont'd)

- Embrace that prosecution should not be the primary goal with cases involving older victims
  - Take time to listen, build credibility and cases will reveal themselves
  - 80-90% of suspects are family members/people they trust so understand these cases take time and patience.
  - Don't let lack of prosecution discourage you.

- Know that we cannot always do this alone
  - Understand the multidisciplinary mindset is crucial to be successful in the reduction of elder justice!
  - Its ok to ask for help and to bring in other professions for the best results

- Have trained, dedicated elder abuse detectives and mentors for these cases
  - Encourage & support the development of these positions within your states
  - Concentrated enforcement is vital in getting ahead of the exploitation of our older population

# QUESTIONS?

# Feel free to contact us

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Department Phone: (207) 985-6121
Email: csimeoni@kennebunkmaine.us
Websites:
www.kennebunkmaine.us
www.yceatf.org

# FINANCIAL EXPLOITATION RESOURCES

- Connolly, M.T. (2023). *The Measure of Our Age*. New York, NY: PublicAffairs.
- OVW FY 2024 Training and Services to End Abuse in Later Life Program Solicitation, scheduled for release in spring 2024 (see 2023 solicitation)
- The Maine Elder Justice Roadmap and Snapshot
- How Cops can Recognize the Signs of Elder Abuse
- SAFTA (EJI) and SAFTA Toolkit (IACP)
- Roll Call videos (EJI) and Identifying and Responding to Elder Abuse: An Officer's Role (IACP)

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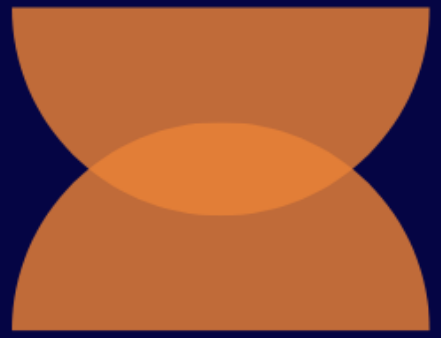

LAW ENFORCEMENT

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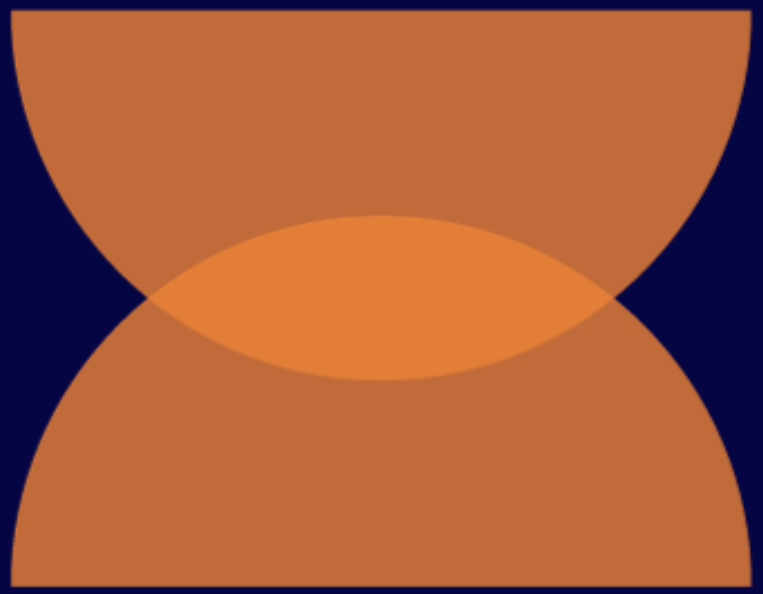
# LUNCH

## ON YOUR OWN

DEPARTMENT OF JUSTICE

Elder Justice INITIATIVE



# NATIONAL ELDER JUSTICE LAW ENFORCEMENT SUMMIT

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SUMMIT

# Recognizing Trauma and Connecting Older Victims with Services


Chris Merkle

Senior Investigator, Boulder County District Attorney's Office

Justin Ramsdell, Psy.D

Associate Professor of Psychology, George Mason University


DEPARTMENT OF JUSTICE

ElderJustice INITIATIVE

# Learning Objectives

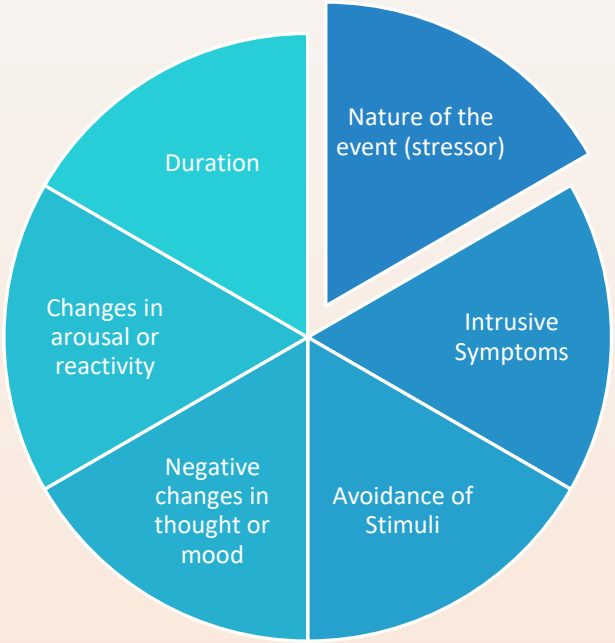
1. Understand the signs of current and/or past trauma in older adults.
2. Recognize the ways in which trauma acts on the current situation.
3. Understand the range of services available to older adults in order to more effectively problem solve.
4. Apply the knowledge of the way trauma presents in, and impacts, older adults and use this information to increase the success of investigations and increase the utilization of services.

# Recognizing Trauma in Older Adults

# Recognizing Trauma

Recognizing trauma can be difficult since most assessments of trauma involve two things…

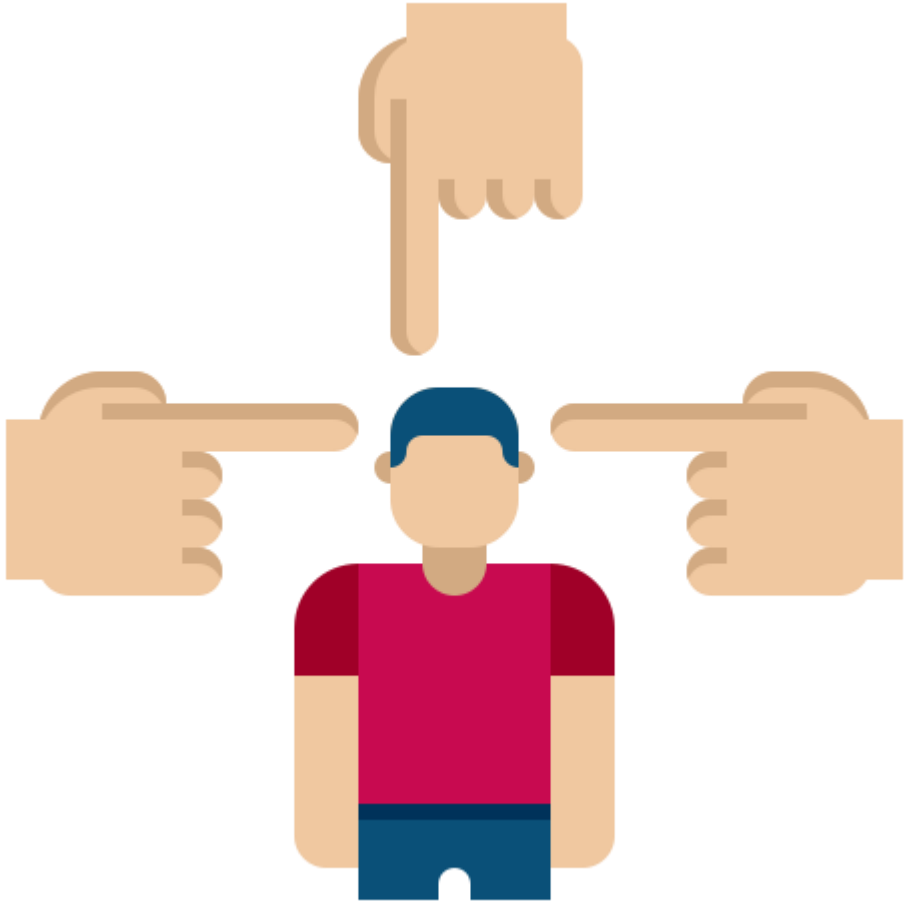
The presence of symptoms associated with PTSD




A change in baseline behavior

# Recognizing Trauma

- The easiest signs involve self-report.
- This is difficult due to cultural factors associated with the stigma of mental illness.



# Commonalities

- However, there are some aspects of recognizing trauma that are common for all people. But to discuss these, we need to discuss your brain.

# Hypothalamic-Pituitary-Adrenal (HPA) Axis

More commonly know known as the “Fight or Flight Response”

## Hypothalamus

- Your brain’s “Grand Central Station”
- Communicates with your endocrine system

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## Pituitary Gland

- Remember this from junior high health?
- Also functions as a “master gland” informing other parts of the endocrine system

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More commonly know known as the “Fight or Flight Response”

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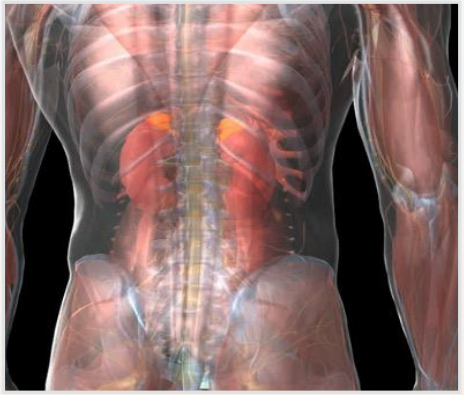
- Your brain’s “Grand Central Station”
- Communicates with your endocrine system

## Pituitary Gland

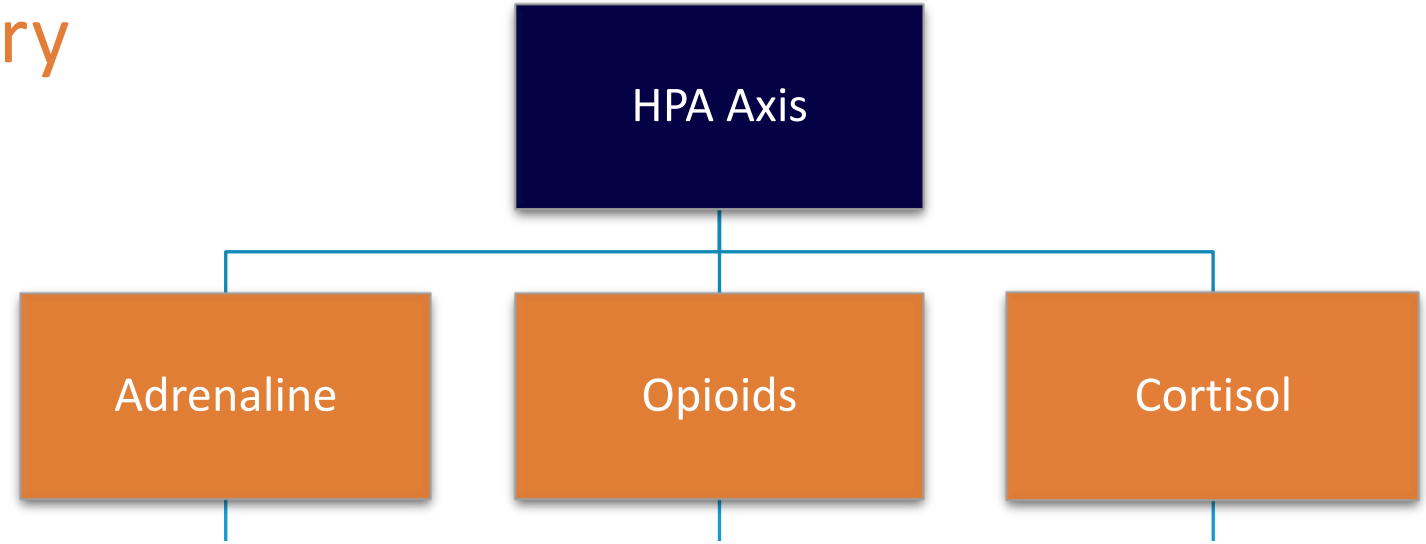
- Remember this from junior high health?
- Also functions as a “master gland” informing other parts of the endocrine system

## Adrenal Gland



- Located on top of your kidneys
- Releases adrenaline/ norepinephrine

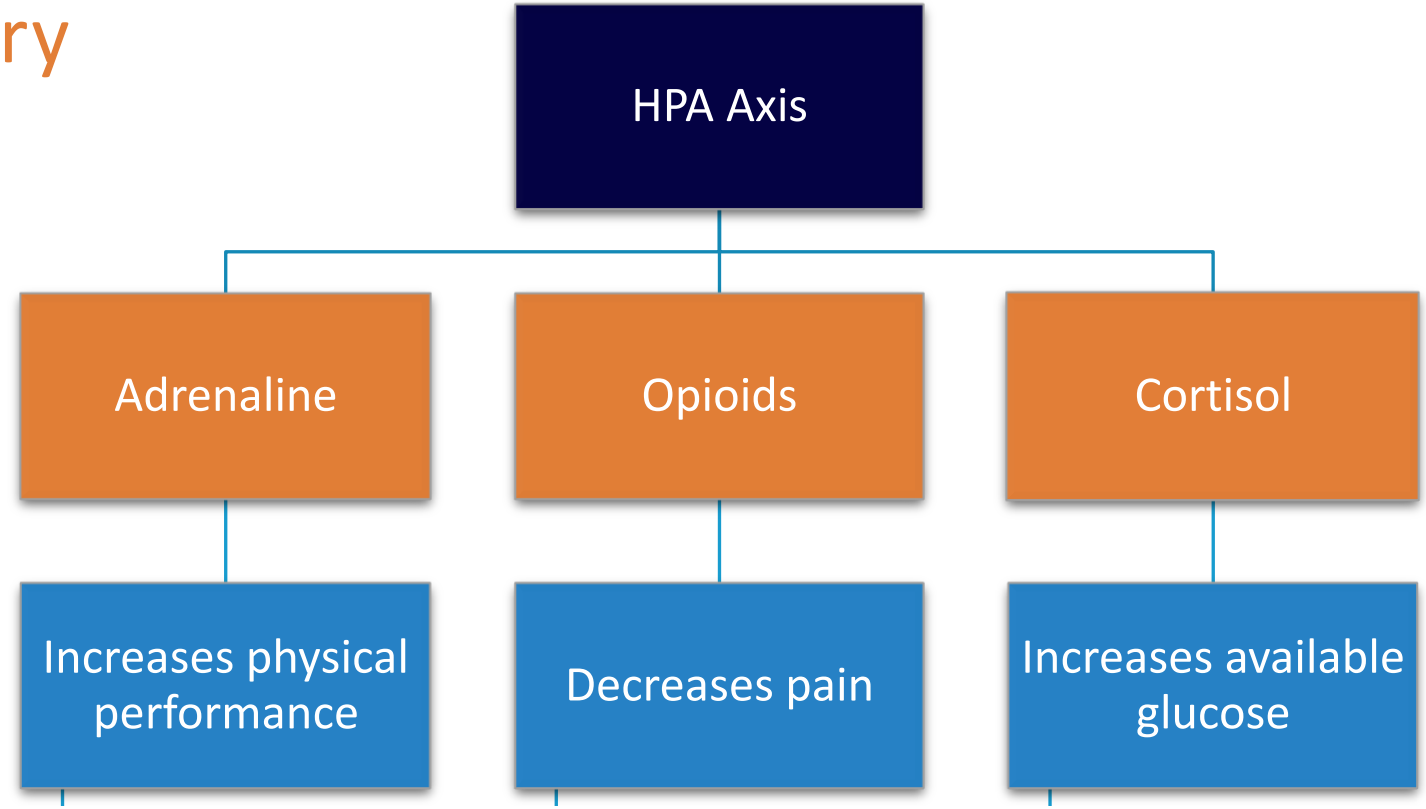
# Hypothalamic-Pituitary -Adrenal (HPA) Axis




More commonly know known as the “Fight or Flight Response”

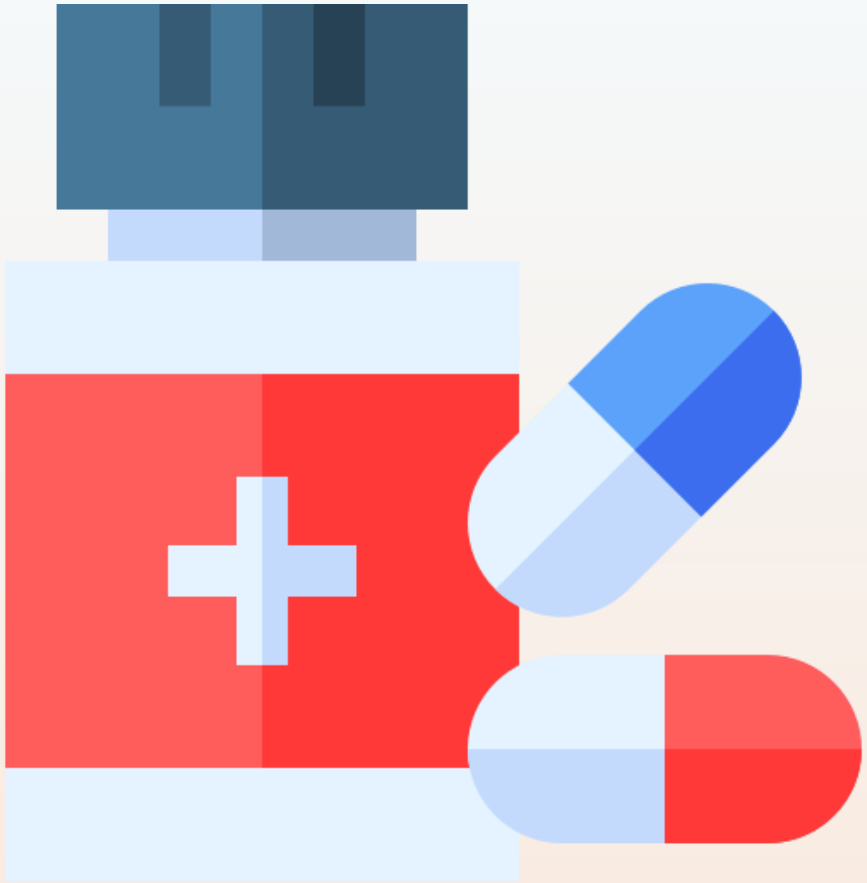
# Hypothalamic-Pituitary -Adrenal (HPA) Axis

More commonly know known as the “Fight or Flight Response”



# Common Side Effects Include…

Hormones and chemicals introduced into the human body generally do more than "one thing."



**Good things:**

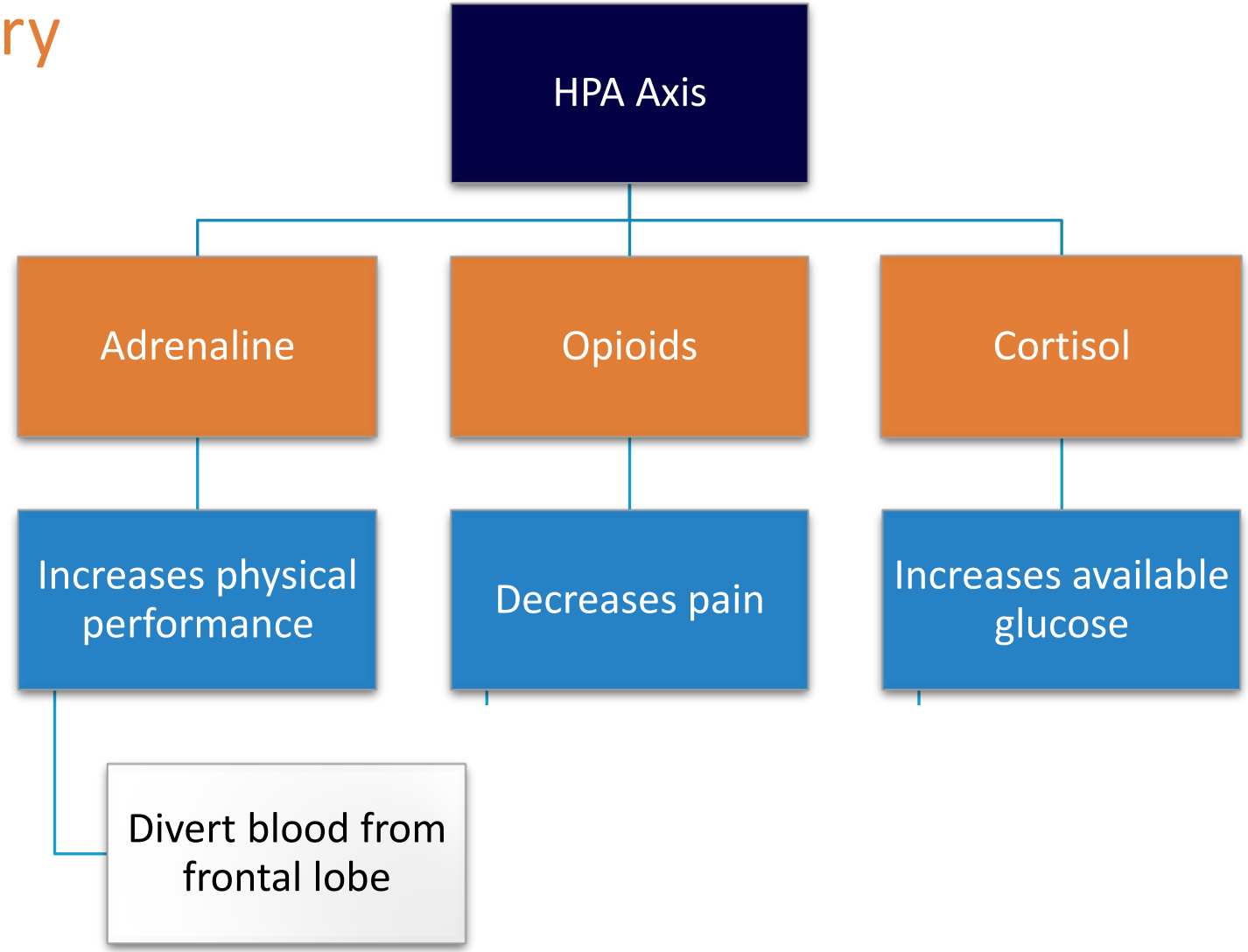
- Alleviates the problem

**Not-so-good things:**

- Creates other problems that hopefully are not as bad as the initial problem

# Hypothalamic-Pituitary -Adrenal (HPA) Axis

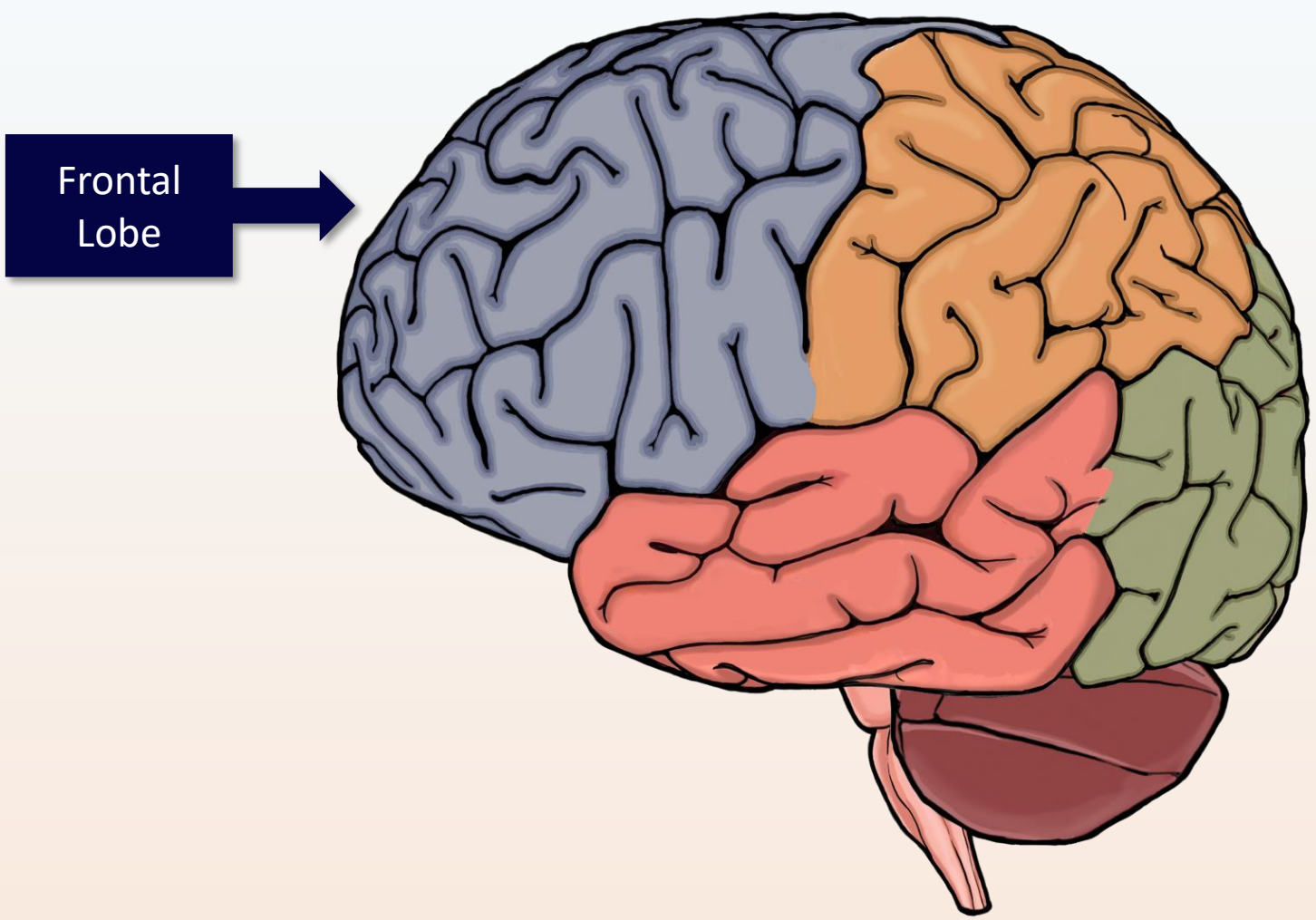
Adrenaline, opioids, and cortisol are not any different…



# The Frontal Lobe

Useful for “thinking”

…Like if I asked you to plan a party on a budget.



# The Frontal Lobe

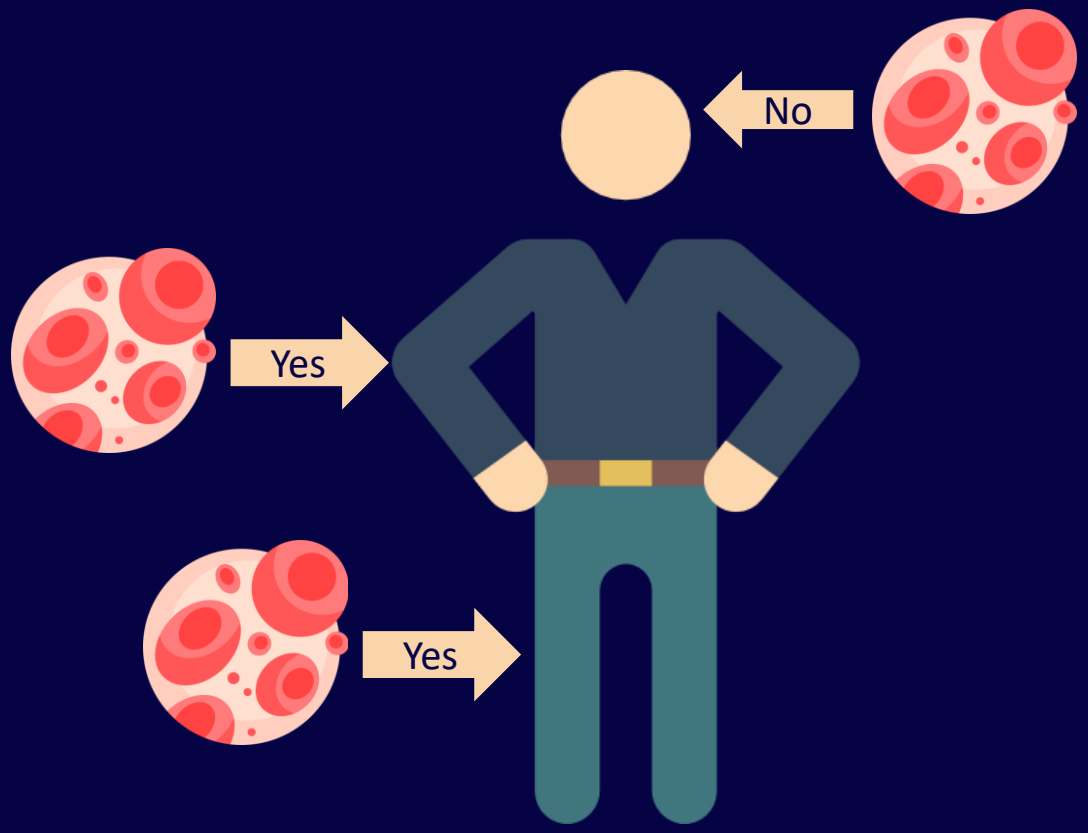
Useful for “thinking”

…Like if I asked you to plan a party on a budget.

We call this “executive functioning.”

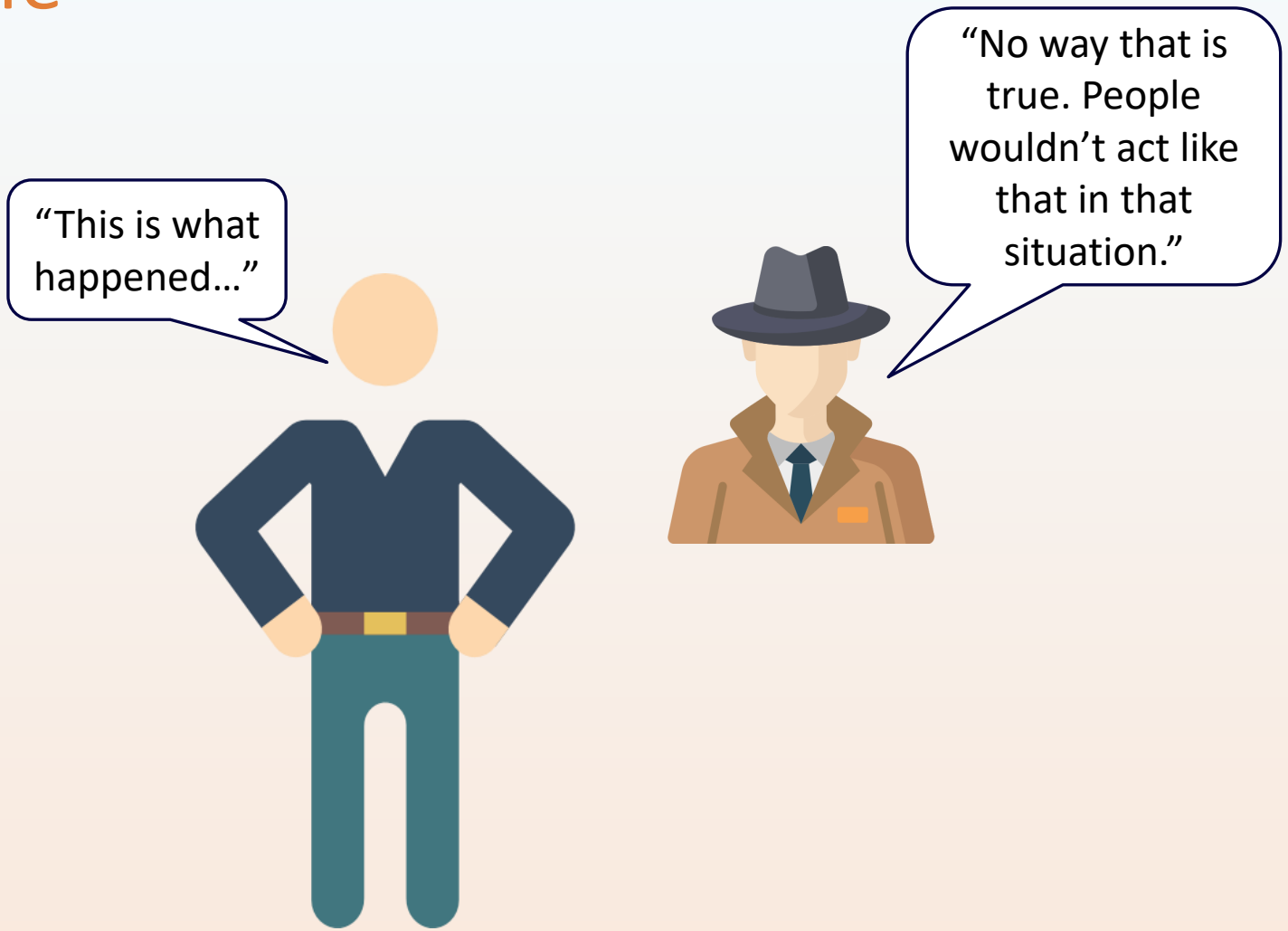
# The Problem with the HPA Axis

Useful for “thinking…” but not in an emergency.



# The Problem with the HPA Axis

Useful for "thinking…" but not in an emergency.



# Older Adults are People Too…

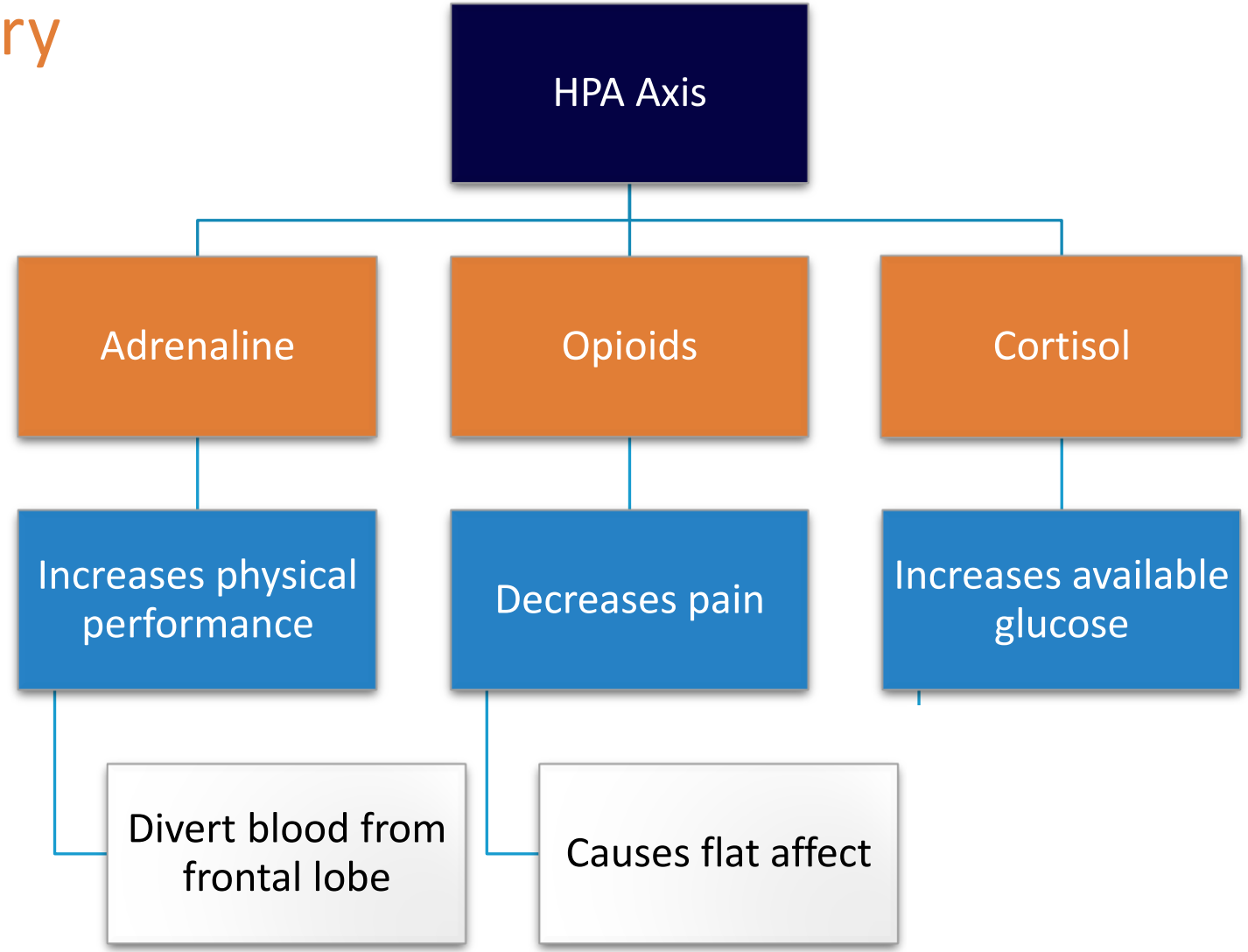
Everything we have (and will) discuss, applies to everyone

# Older Adults are People Too…

However, some aspects of how trauma presents are especially true in older adults. So, let's return to he HPA axis.

# Hypothalamic-Pituitary -Adrenal (HPA) Axis

Adrenaline, opioids, and cortisol are not any different…



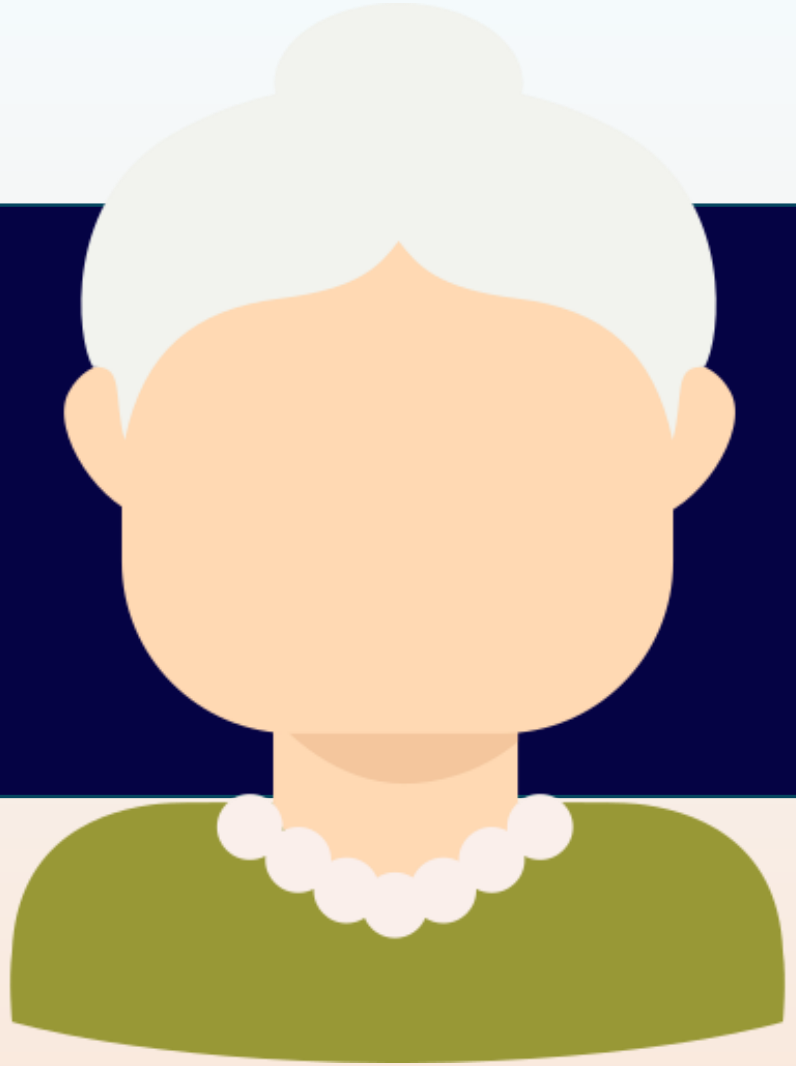
# Flat "Affect"

This can be present in the moments immediately after a traumatic event or, especially in the case of older individuals, present days and months after the event.

| Day of the event | One week after the event | Months after the event |
| --- | --- | --- |
| A "haze," descriptions of the event in which the affect does not match the trauma. | More ability to recall details of the event, but still lacking emotional "congruency." | Limited emotional description of the effects of trauma on their lives after the event. |

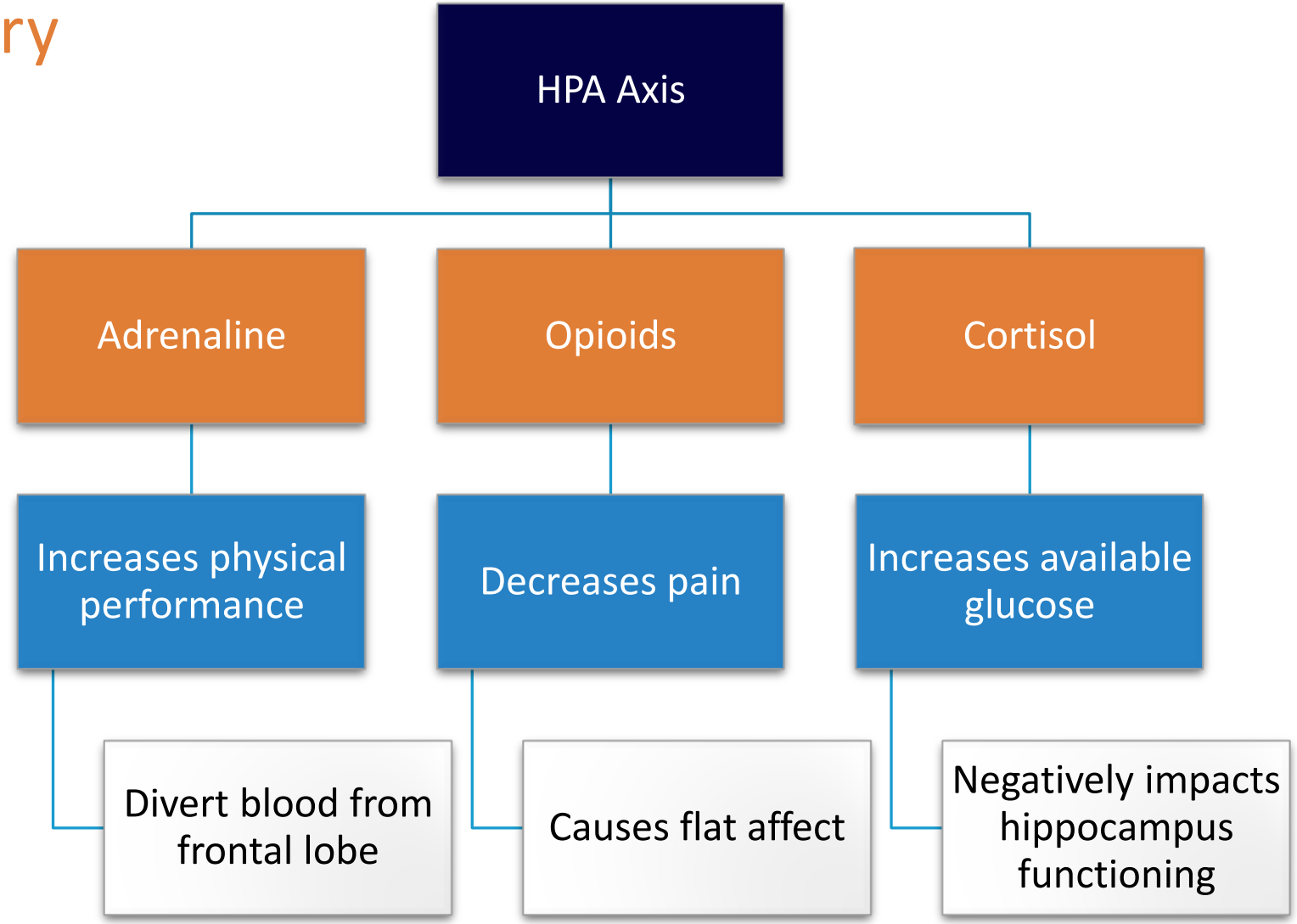
# Case Example: Betty

89-year-old sexual assault survivor



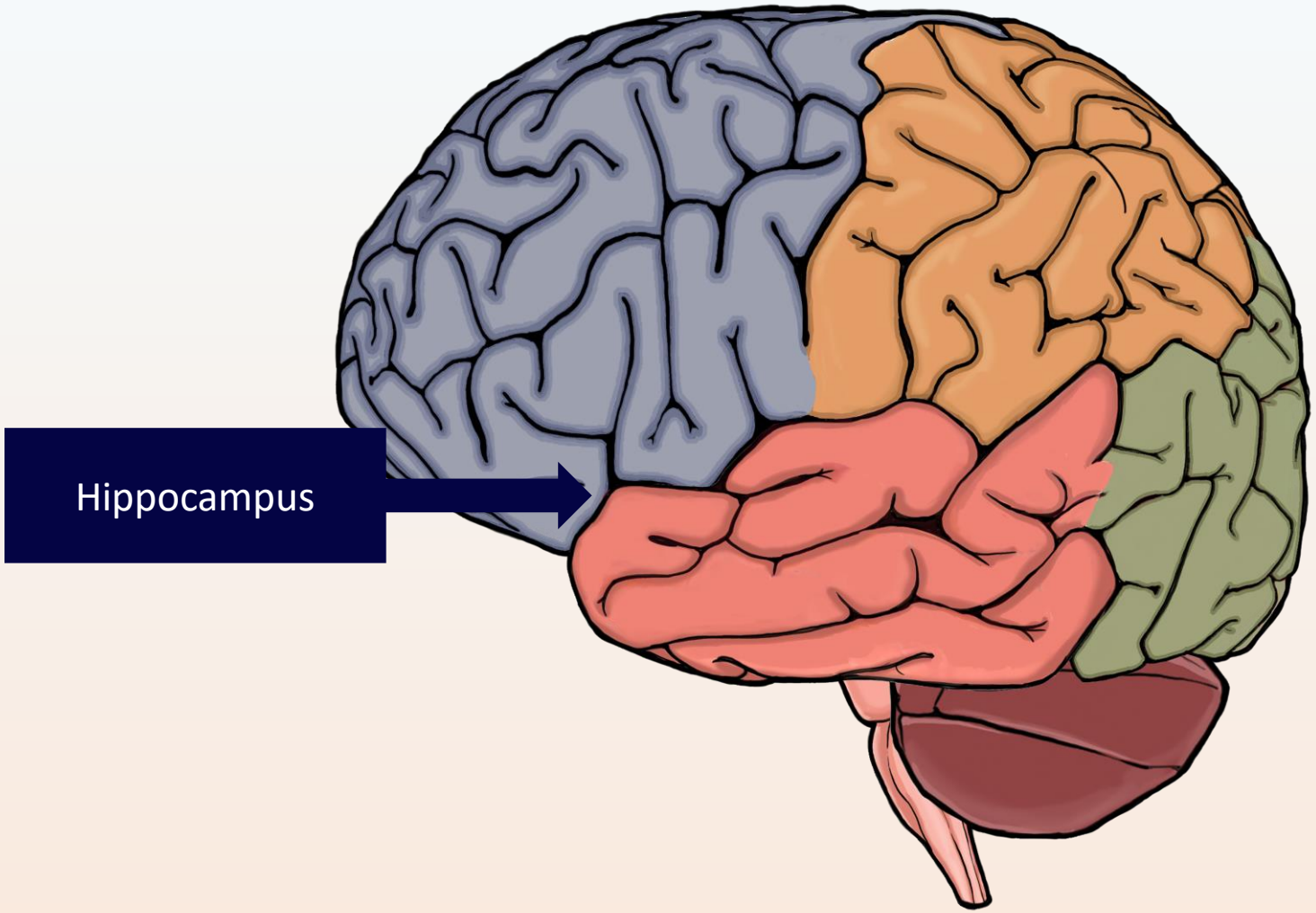
# Hypothalamic-Pituitary -Adrenal (HPA) Axis

Adrenaline, opioids, and cortisol are not any different…



# The Hippocampus

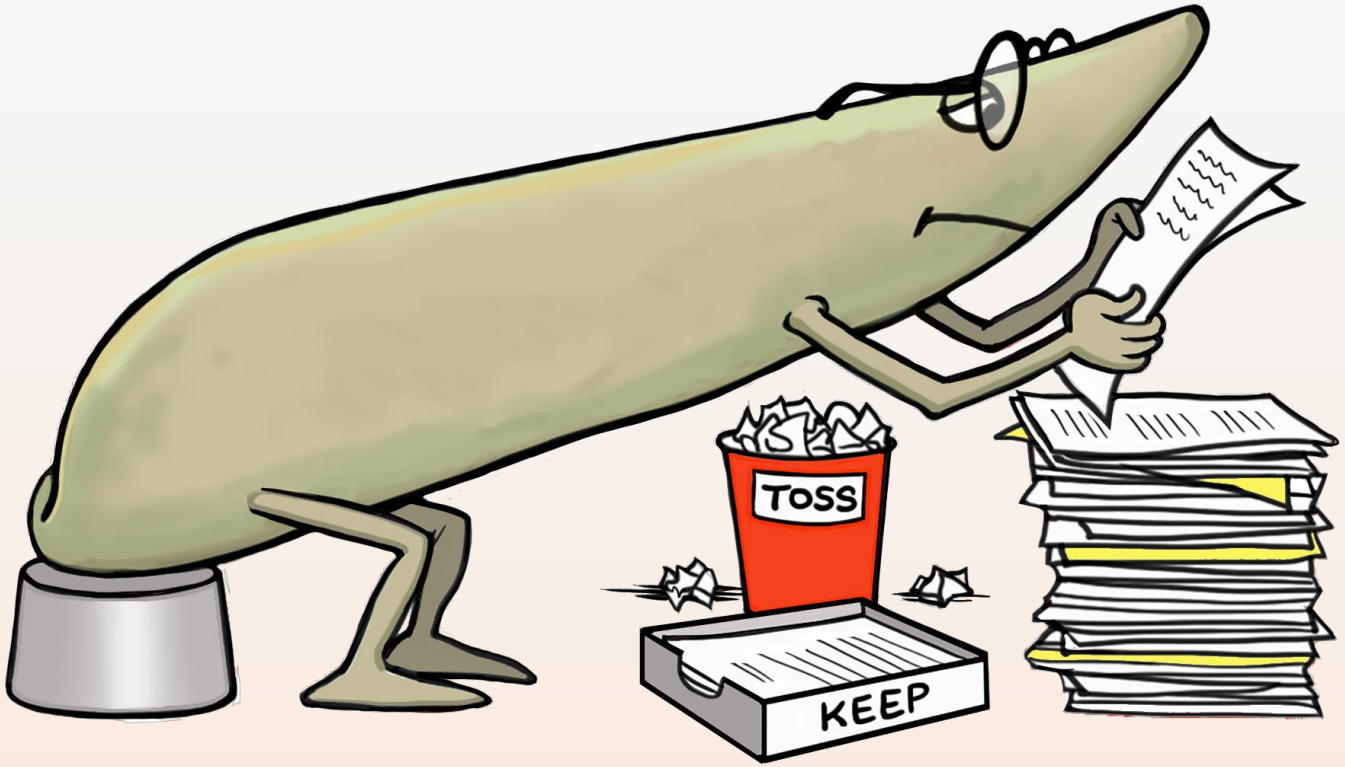
Responsible for consolidating information from short-term memory to long-term memory.



# The Hippocampus

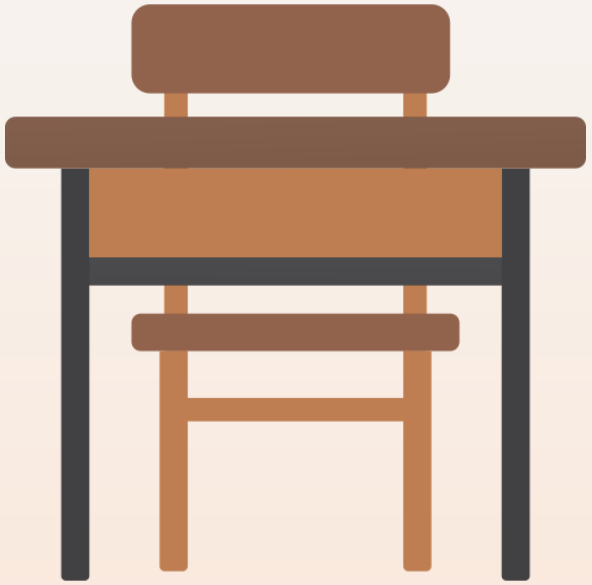
Responsible for consolidating information from short-term memory to long-term memory.

Think of the hippocampus as a "file clerk" that decides what goes into long-term memory and what gets discarded because it is deemed as unnecessary.



# Memory Following Traumatic Events

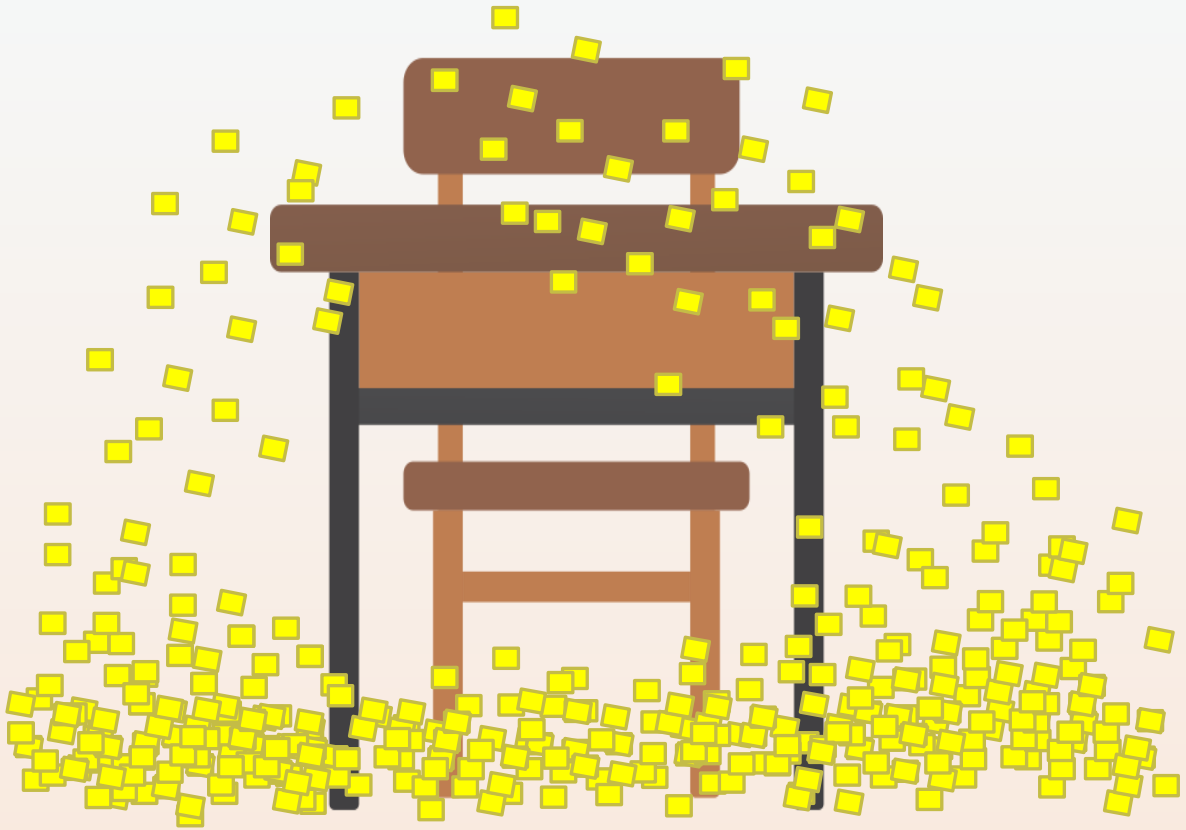
Imagine I told you that you were going to take a test on everything you learned at this Summit. However, you were only allowed to take notes on those tiny Post-It Notes.



# Memory Following Traumatic Events

Then I took those Post-It Notes and threw them all in the air right when the test was starting.

- You were here.
- You took good notes.
- But now everything is disorganized



# Memory Following Traumatic Events

Everyone will experience disorganized descriptions of traumatic events immediately following the event. This trend is more likely to continue in older adults… even weeks or months after the event.

True

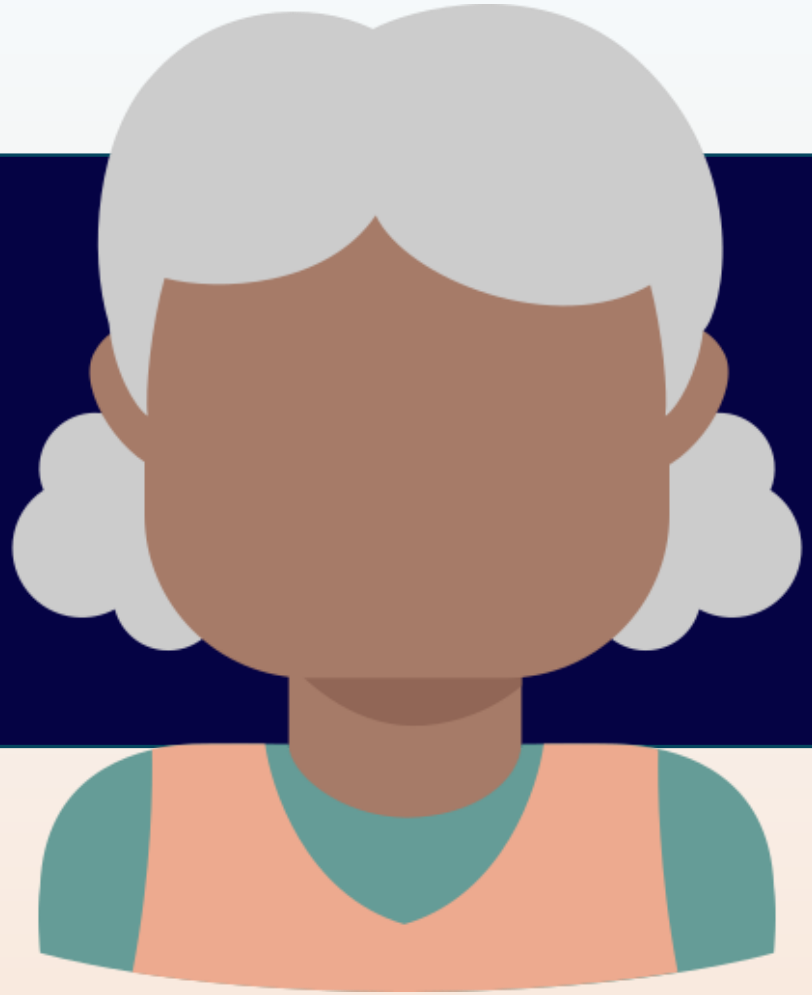
True

Very True

# Case Example: Ella

89-year-old sexual assault survivor

84-year-old female encountered on a death investigation of her husband

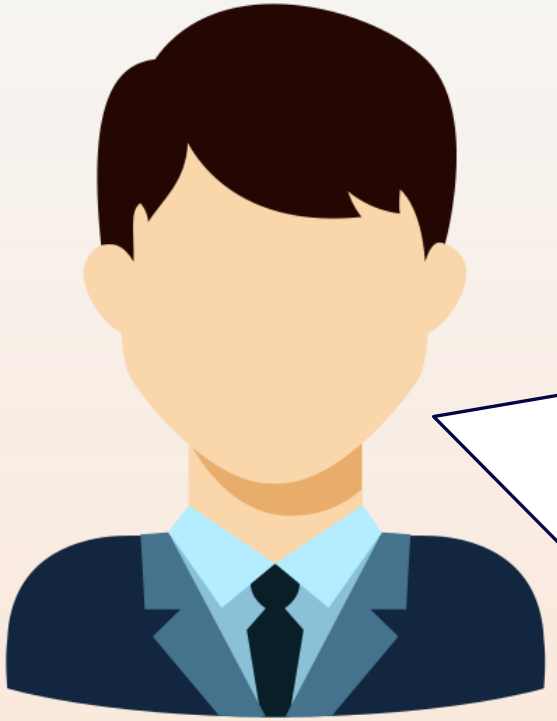


# Trauma Presentation More Specific to Older Adults

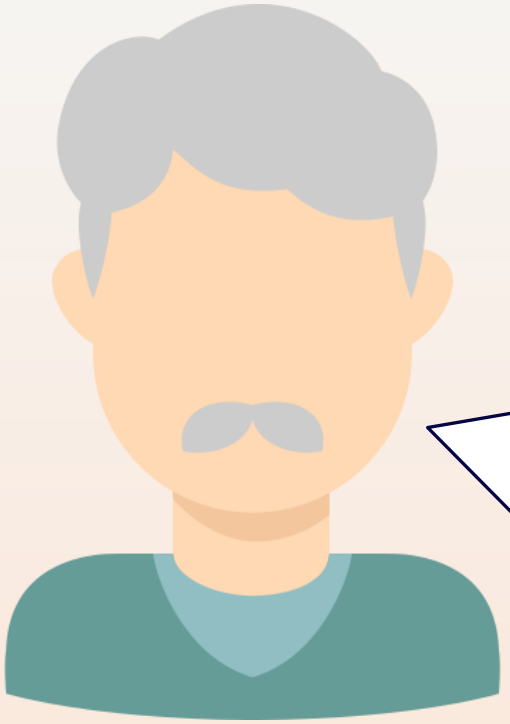
Some aspects of trauma presentation are more specific to older adults than children or younger adults.

# Grammatical Tense Changes

These changes may not assist with identifying trauma, since they generally occur in the communication of trauma, but they can make understanding older individuals easier.



"One day, I **went** to the store to buy groceries and **saw** an officer standing by his car. I **saw** a man with a knife attack the officer. Soon after, other officers **arrived** they **pushed** me backward."



"One day, I **went** to the store to buy groceries and **see** an officer standing by his car. I **see** a man with a knife attack the officer. Soon after, other officers **are arriving** they **are pushing** me backward."

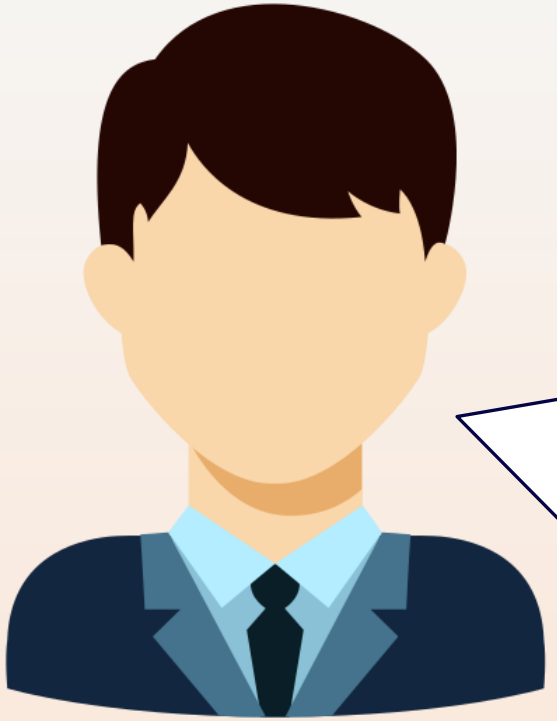
# Case Example: Maria

89-year-old sexual assault survivor

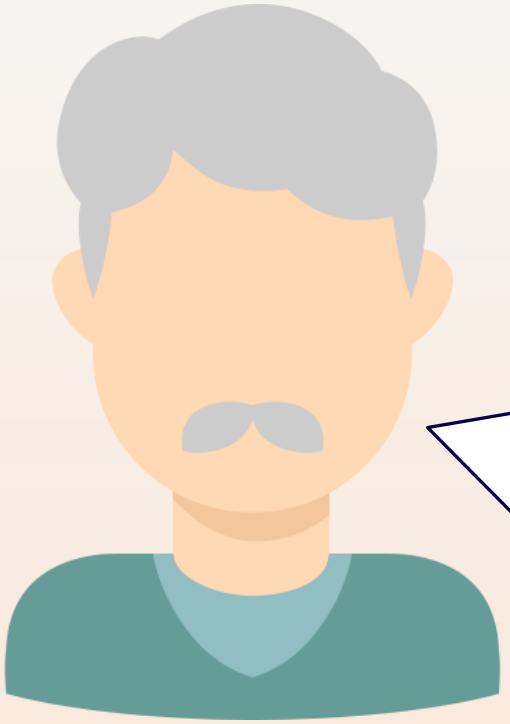
78-year-old sexual assault survivor

# Difficulties Explaining the Effects of the Trauma on Their Relationships

This results in a self-centered way of viewing the traumatic event and the results of the event.



"After the event, I just didn't like doing anything anymore. My girlfriend would ask me to go to the movies and I wouldn't. I wouldn't do anything. She was supportive at first, but we recently broke up."



"I only have one daughter and three grandchildren. Everyone wants to help me out, but I don't like asking for help. I would go to the theater a lot, but I not a member anymore."

# Case Example: Multiple Individuals

Self-pity, self-criticism, and despair

# Other Factors to Consider…

Studies with military veterans show that PTSD symptoms often arise an average of 17 years after the traumatic event.

PTSD symptoms can arise later in life

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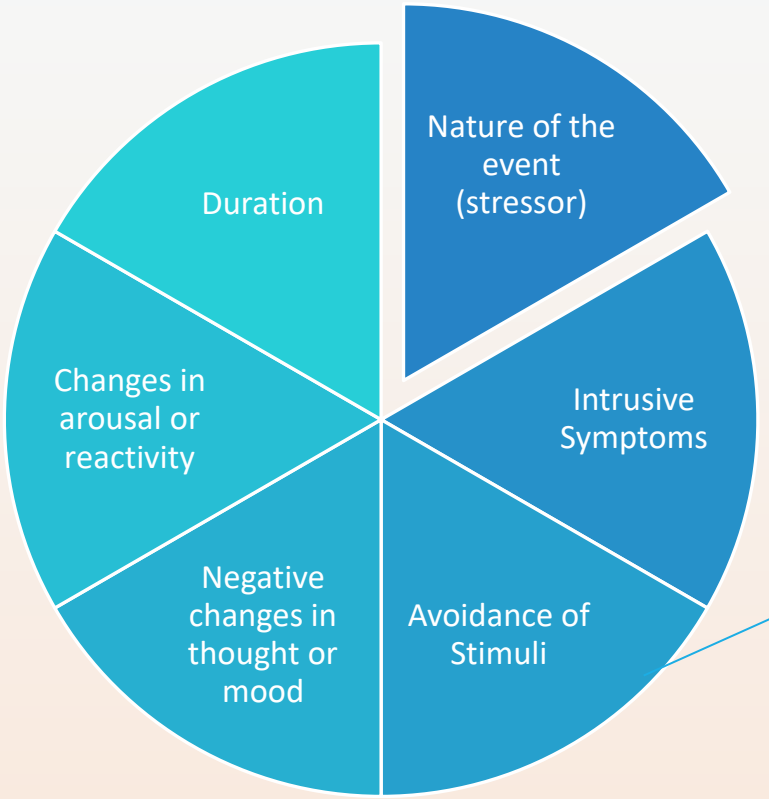
Studies with military veterans show that PTSD symptoms often arise an average of 17 years after the traumatic event.

PTSD symptoms can arise later in life

On average, older individuals exhibit lower symptom severity compared to younger individuals

# Other Factors to Consider…




**Avoidance of Stimuli**

- Avoid distressing memories/ thoughts/feelings associated with event
- Avoid external reminders of event that arouse distressing thoughts/feelings/ memories

PTSD symptoms can arise later in life

On average, older individuals exhibit lower symptom severity compared to younger individuals

Older individual exhibit higher levels of "avoidance" symptoms

# Resources for Victims

- Local senior services
- Adult protective services
- Area agency on aging
- Mental health resources
- Veteran services
- Legal assistance
- Food assistance
- Housing assistance
- Transportation assistance
- Safety resources

# Resources for Investigators

- Multidisciplinary teams (MDTs)
- Adult protection review team
- Adult protective services
- Elderly fatality review team
- City or County senior services
- Training for investigations involving older adults

# VICTIM SERVICES RESOURCES

- NW3C Victim-Centered Solutions to Elder Exploitation (Online, Web-based training)
- Guide for a Trauma-informed Law Enforcement Initiative
- Lasch, A., & Merkle, C. (2022). A Victim-Centered Approach to Elder Abuse Investigations (NCALL webinar)
- Annotated Bibliography: Restorative Justice and Victim Impact

# Questions?

# Contact Information

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Website: https://bouldercounty.gov

**Justin Ramsdell**
E-mail: jramsde2@gmu.edu
Website: https://psychology.gmu.edu/people/jramsde2

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NATIONAL

ELDER JUSTICE

LAW ENFORCEMENT

SUMMIT

# BREAK

DEPARTMENT OF JUSTICE

Elder Justice INITIATIVE

DEPARTMENT OF JUSTICE

Elder Justice INITIATIVE

# Identifying and Investigating Abuse Occurring in Long-Term Care Facilities

February 7, 2024

# PRESENTERS

## Susan Lynch, JD, DrPH

Senior Counsel for Elder Justice

U.S. Department of Justice

## Officer Ronald M. Johnson

Baltimore County Police Department

## Capt. Nicole Nappi

EMS Captain

Baltimore County Fire Department

## Beverley Laubert

National Ombudsman Program Coordinator

Administration for Community Living

# AGENDA

- Abuse and Neglect in Nursing Homes
- Relevant State and Federal Laws & Regulations
- Partnership and Collaboration: Working with EMS in Nursing Home Cases
- Identifying/Responding to/Investigating Abuse and Neglect in Nursing Homes
- Partnership and Collaboration: Working with Ombudsman in Nursing Home Cases
- Scenarios: Learning in Action
- Q&A

**Susan Lynch, JD, DrPH**

Senior Counsel for Elder Justice

U.S. Department of Justice

# SHOW OF HANDS

- How many of you have been called to service to a long-term care facility and felt that something was wrong - that the quality of care was a problem?

# PROBLEM: ELDER ABUSE IN NURSING HOMES AND LONG-TERM CARE FACILITIES

- Physical abuse
- Financial abuse
- Psychological abuse
- Sexual abuse
- Neglect

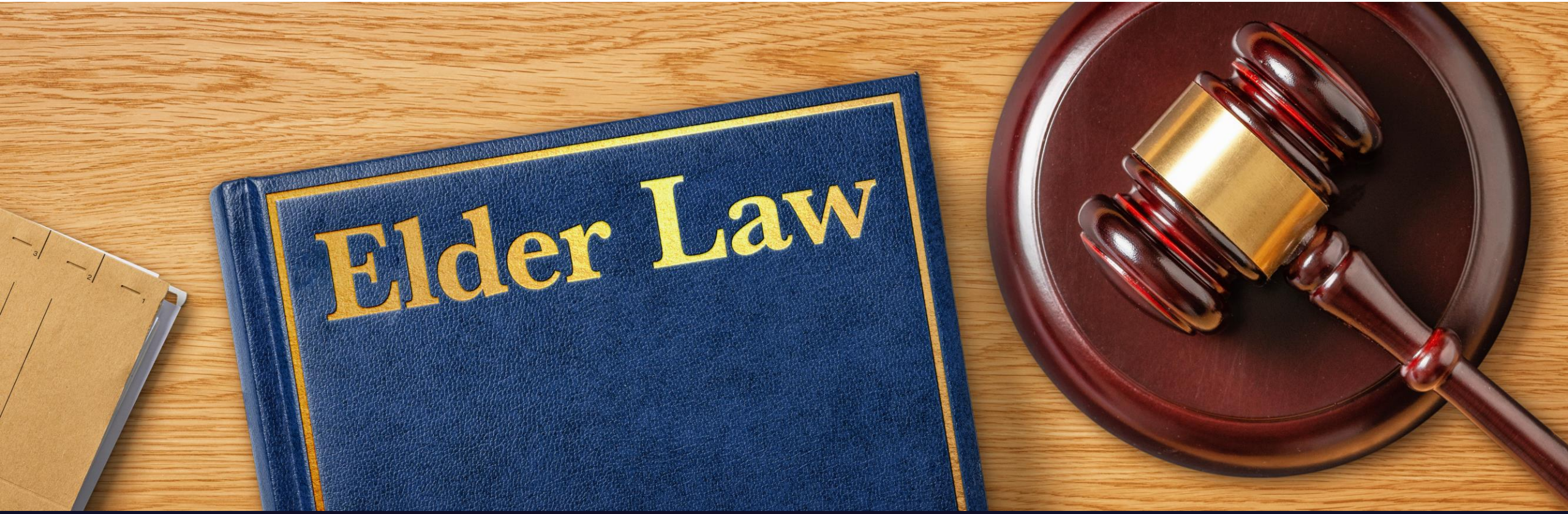
# PROBLEMS LEADING TO FEDERAL AND STATE CASES: NURSING FACILITY AND CHAIN

- Inadequate staff: Number and skill-level based on resident acuity
- Inadequate supplies like food, adult undergarments, gloves, and linens
- Terrible physical plant conditions, filthy, lack of air conditioning, lack of hot water, leaking roofs
- Overuse of antipsychotic medications
- Failure to supervise violent patients
- Bonus structure that rewards practices leading to bad care (i.e., cutting staff, increasing census beyond capacity)
- Failure to investigate resident or family complaints

# PROBLEMS LEADING TO FEDERAL AND STATE CASES: BAD RESIDENT OUTCOMES

- Malnourished, dehydrated
- Pressure sores, scabies, or maggots
- Lying for hours/days in feces/urine
- Residents filthy, infected
- Wrong, too little or too much medication
- Falls, fractures, other injuries, deaths

# ELDER ABUSE IN A LTC FACILITY CAN BE A CRIME



# RELEVANT STATE ABUSE/NEGLECT LAWS (MARYLAND)

| | |
|---|---|
| **Assault in the First Degree (Felony)** | ***Intentionally cause or attempt to cause serious physical injury***<br>• Maximum Sentence 25 years |
| **Assault in the Second Degree (Misdemeanor)** | ***Physical harm OR offensive physical contact OR an Attempt to cause either***<br><br>***Intent to Frighten by threat of imminent offensive physical contact***<br>• Maximum Sentence 10 years |
| **Reckless Endangerment (Misdemeanor)** | ***Recklessly engaging in conduct that creates a substantial risk of death or serious physical injury to another***<br>• Maximum penalty, 5 years and $5,000.00 |
| **Sexual Crimes (Felony and Misdemeanor)** | ***Includes Rape and Sexual Offense***<br>• Maximum penalties range from 1 year to Life |
| **Abuse/Neglect of a Vulnerable Adult in the First Degree (Felony)** | ***Abuse or neglect that results in death, serious physical injury, or is sexual abuse***<br>• Maximum sentence 10 years, $10,000.00 |

# RELEVANT FEDERAL LAWS AND REGULATIONS

## CIVIL

- False Claims Act, 31 U.S.C. 3729
- National Housing Act of 1934
- Corporations and Individuals

## CRIMINAL

- 18 U.S.C. § 1347 health care fraud scheme
- 26 U.S.C. §§ 7202, 7203 tax violations
- 18 U.S.C. § 1035 substantive counts – false medical records regarding patient care

## CIVIL RIGHTS

- The Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997a.

# DOJ: NATIONAL NURSING HOME INITIATIVE

- Civil Case Example
- Criminal Case Example

# CIVIL CASE EXAMPLE: BOB DEAN IN LOUISIANA

PRESS RELEASE

## United States Files Complaint Against Bob Dean Jr. and Affiliated Corporate Entities for Financial Misconduct Stemming from Evacuation of Nursing Homes During Hurricane Ida

Thursday, January 12, 2023

Share

**For Immediate Release**

Office of Public Affairs

The United States has filed a complaint under the National Housing Act of 1934 (NHA) against Bob Dean Jr. and several affiliated corporate entities for misappropriating and misusing the assets and income of four nursing homes in Louisiana before and after Hurricane Ida's landfall in August 2021. The four nursing homes, all of which were owned and operated by Dean and his companies, and had loans insured by the Federal Housing Administration (FHA), are Maison De'Ville Nursing Home – Houma, Maison De'Ville Nursing Home of Harvey, Maison Orleans Healthcare of New Orleans, and West Jefferson Health Care Center.

# CIVIL CASE EXAMPLE: HOUSER IN GEORGIA

## Nursing home boss stole millions while STARVING SENIORS LIVED IN SQUALOR

A HEARTLESS nursing home owner pocketed millions in government funds while his helpless residents went hungry and lived amid unimaginable filth.

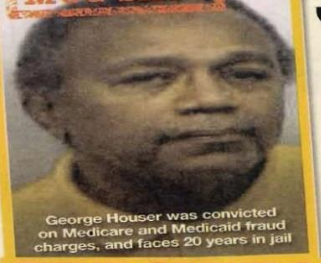
At the three Georgia homes operated by Harvard-educated lawyer George Houser, 64, broken heating and air conditioning units gave rise to rampant mold and mildew growth. Ceiling tiles became so waterlogged, they fell down on the poor bedridden souls.

And garbage left rotting outside attracted swarms of flies and a horde of rats that easily entered the homes through ill-fitting screens and doors.

Meanwhile, Houser and his wife Rhonda, 48, a real estate agent, spent the better part of $40 million in Medicare and Medicaid money to live lavishly.

They treated themselves to Mercedes cars, fancy vacations, new homes and pricey furniture.

OFFICIAL MUG SHOT



George Houser was convicted on Medicare and Medicaid fraud charges, and faces 20 years in jail

### FIEND SPENT CASH on houses, cars & vacations with wife

**HOUSER SHELLED OUT $4.2 MILLION FOR** land to develop hotels and, incredibly, spent $1.3 million on a house for his ex-wife. He even saved himself alimony payments by putting his ex on the nursing home payroll in a no-show job.

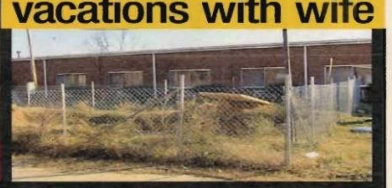
He was far less generous to residents and workers at the homes – Mount Berry and Moran Lake in Rome, Ga., and Wildwood in nearby Brunswick – who lived in squalor. Broken washing machines went unrepaired, and bills for food, nursing needs and pharmacy services for the 400 residents went unpaid.

"It almost defies the imagination to believe that someone would use millions of dollars in Medicare and Medicaid money to buy real estate for hotels and a house while his elderly and defenseless nursing home residents went hungry and lived in filth," said Sally William Yates, U.S. Attorney for the Atlanta area.

Houser's greed also affected his employees, many of them dedicated caretakers who would take home dirty sheets to wash and purchase food for the residents. Without their knowledge, Houser stopped making health insurance payments, leaving some with huge medical bills.

The nursing homes, which opened in 2004, were shut in 2007 after numerous complaints were received by the Georgia Department of Human Resources.

Houser and his wife were indicted on April 14, 2010. She pleaded guilty last December to a charge that she knew her husband was committing health care fraud. He was convicted on Medicare and Medicaid fraud charges on April 2 and faces 20 years in jail at his sentencing on June 29.



A roof leaked so badly at one of the facilities that buckets were used to catch the water and ceiling tiles fell onto bedridden residents. Garbage was left to rot outside, attracting flies and rats, and bathroom floors were stained and filthy

"It almost defies the imagination"

The conviction is little comfort to Loretta Terhune, whose 80-year-old father Morris Ellison entered one of Houser's nursing homes in 2006 for post-operative recovery. Loretta said her dad was active with a busy social life that included a couple of girlfriends.

But within eight months, Morris was dead. An autopsy showed he was malnourished, dehydrated and had an untreated broken hip after falling numerous times at the home.

Loretta sued Houser for wrongful death before his criminal trial began. It took a jury less than three hours to award her $43.5 million.

In an interview after the jury returned, coldhearted Houser was asked what he thought about the award. He just laughed.

by DON GENTILE
dgentile@nationalenquirer.com

NE 38 • June 11, 2012

# FEDERAL CRIMINAL CASE

- Evidence of especially egregious care
- Systemic or widespread problems
- Evidence of harm to residents
- Pattern and practice

# SERVICES/UTILITIES: CONSTANT WARNINGS & DISCONTINUED SERVICES

- Georgia power
- Natural gas
- Water
- Telephones
- Sysco (food)
- Bread & milk
- Trash/waste management
- Biohazardous materials disposal
- Pest control
- X-ray services
- Laboratory services
- Fire alarm services

# LACK OF FOOD

- Mt Berry:  $1.83 Cost Per Patient Per Day
- National Average: $5.60 Per Day
  - 75% of nursing homes in the country were above this amount

# ADMINISTRATOR E-MAILS

NOVEMBER 22, 2006

GEORGE,

WE ARE IN SERIOUS NEED OF MONEY!!!!!!!!!!!!!!!!!!!

WE WILL NOT HAVE ENOUGH INSULIN SYRINGES, ALCOHOL SWABS, ETC TO GET THROUGH TILL NEXT

WE CAN NOT COPY ANYTHING---THEY WILL NOT COME TO FIX THE COPIER!!!!!!!

ALL INK CARTRIDGES AND TONERS ARE OUT OF INK.

WE CAN NOT FAX ANYTHING BECAUSE WE ARE OUT OF INK!!!!!!!!!!!!!!

WE NEED MONEY !!!!!!!!! TODAY!!!!!!!!!!!

WE CAN NOT GIVE INSULIN AFTER THIS AFTERNOON TO INCLUDE TONIGHT OR TOMMORROW AND IT IS THANKSGIVING TOMMORROW.

LOIS

# ADMINISTRATOR E-MAILS (CONT'D)

WE HAVE CEILING TILES AND ROOF LEAKS ON RESIDENTS' BEDS AND CLOTHES. I NEED SOMEONE TO EITHER TAKE CARE OF IT OR BRING MONEY FOR JAMIE TO DO SOMETHING!!!

KM
12/22/06

# “I was like a Kid in a Candy Store”

George D. Houser
August 31, 2010, in Floyd County Superior Court

# PAYROLL ISSUES

- Employee Checks Bounced Constantly
- “Race” to the Bank
- Rome Banks Quit Honoring Checks
- Cartersville Banks Quit Honoring Checks
- No One Will Honor Checks
- Money Van (Fee)
- Used Employees’ Insurance Premiums

# RESIDENT TRUST FUND

- Stealing Residents' Money
  - Used as a personal checking account
  - Used to make payroll
  - Used to pay bills

# SENTENCING

- 20 years of federal prison
- 3 years supervised release
- $6,742,807.88 in restitution to Medicaid and Medicare
- $872,515 in restitution to IRS
- The district judge described the conditions at the nursing homes as "**cruel, atrocious, barbaric, inhumane and uncivilized**."

# Capt. Nicole Nappi

EMS Captain

Baltimore County Fire Department

# LE PARTNERSHIPS AND COLLABORATIONS: WORKING WITH EMS IN NURSING HOME CASES

- Identifying
- Investigating
- Reporting Elder Abuse and Neglect

# HOW EMS CAN HELP: IDENTIFY AND DOCUMENT EVIDENCE OF ELDER ABUSE

- EMS are often the first eyes on cases of elder abuse
- Evidence of elder abuse will be found in:
  - Your scene size-up and environmental assessment
  - Your patient assessment and physical exam

# HOW EMS CAN HELP: EVIDENCE OF PHYSICAL AND SEXUAL ABUSE

- Inadequately explained cuts
- Wounds, sores, bruises, welts, burns, or fractures
- Undernourished
- Dehydrated
- Unexplained sexually transmitted diseases
- Untreated pressure sores

# HOW EMS CAN HELP: EVIDENCE OF PHYSICAL AND PSYCHOLOGICAL ABUSE

- Unexplained or uncharacteristic changes in behavior, such as:
  - Withdrawal from normal activities
  - Confusion
  - Anger
  - Depression
  - Fear
  - Helplessness
  - Shame
- Caregiver/nurse isolates/controls vulnerable older adult
- Caregiver/nurse is verbally aggressive, demeaning, controlling, or uncaring

# HOW EMS CAN HELP: EVIDENCE OF NEGLECT OR SELF-NEGLECT

- Lack of basic hygiene, adequate food, or clean and appropriate clothing
- Untreated medical condition
- Lack of medical aids (glasses, walker, hearing aids, medications)
- Person with dementia left unsupervised
- Person confined to bed and left without care

# DOCUMENTATION IN YOUR EMS PATIENT CARE REPORT IS CRITICAL

Documentation will be used for:

- Potential criminal proceedings
- Potential guardianship hearings
- Data on elder abuse incidence and prevalence

# ADVICE ON DOCUMENTING POTENTIAL ELDER ABUSE

- Document specific details of the environmental assessment and physical exam
- Use direct quotations from the resident and family or caregiver
- Be objective in documentation

# IMPORTANT ISSUES TO CONSIDER IN NURSING HOME ABUSE CASES

- Consent to transport
- Power of Attorney
- Reporting to multiple agencies
- Frequent callers – Do not ignore
- Special Units in your county: ICARE

# CALL TO SERVICE EXAMPLE

- Maryland LTC facility closure example

# REPORT POTENTIAL ELDER ABUSE IN NURSING HOMES

- Law Enforcement
- Department of Health
- Department of Aging
- Long-term Care Ombudsman
- HHS-OIG

# Officer Ronald M. Johnson

Baltimore County Police Department

# LE STRATEGIES AND TACTICS IN LTC ABUSE AND NEGLECT CASES

- Identifying
- Investigating
- Reporting Elder Abuse and Neglect

# LE STRATEGIES: IDENTIFYING ELDER ABUSE ON A CALL TO SERVICE

- Unexplained bruising
- The victim will not look at you or looks to caregiver/nurse to answer
- Fear of retaliation at the facility

# LE STRATEGIES: STEPS TO TAKE WHEN RESPONDING TO A CALL FOR SERVICE FOR ELDER ABUSE IN A NURSING HOME

- Interview EVERYONE
- Look for video surveillance in the facility (hallways etc. – usually not in rooms)
- Speak with the alleged victim alone

# LE STRATEGIES: PREPARING REPORTS FOR ELDER ABUSE MATTERS

- Document EVERYTHING (see, smell)
- Document the license number for any facility
- Document if unlicensed
- If your agency has specific units that are responsible for following up on these cases, ensure the reports are sent to them
- Contact resources your agency has for these types of calls for service (special crimes or victim units)

# KEY CONSIDERATIONS FOR LAW ENFORCEMENT IN ELDER ABUSE CASES IN NURSING HOMES

- Understand that some residents may have diminished mental capacity
- The resident's loved ones may be in the room; remain professional from start to finish

# IMPORTANT ISSUES TO CONSIDER

- BC REST: “Baltimore County Restoring Elder Safety Today”
- Reporting to multiple agencies

# CALL TO SERVICE EXAMPLE

- Maryland LTC facility abuse example

# REPORT POTENTIAL ELDER ABUSE IN NURSING HOMES

- Law Enforcement
- Department of Health
- Department of Aging
- Long-term Care Ombudsman
- HHS-OIG

# Beverley Laubert

National Ombudsman Program Coordinator

Administration for Community Living

# LE PARTNERSHIPS AND COLLABORATIONS: WORKING WITH OMBUDSMAN IN NURSING HOME CASES

*Our nation has been conducting investigations, passing new laws and issuing new regulations relative to nursing homes at a rapid rate during the past few years. All of this activity will be of little avail unless our communities are organized in such a manner that new laws and new regulations are utilized to deal with the individual complaints of older persons who are living in nursing homes. The individual in the nursing home is powerless. If the laws and regulations are not being applied to her or to him, they might just as well not have been passed or issued.*

*~Arthur Flemming, 1976*

# WHO IS YOUR LTC OMBUDSMAN? AUTHORITY & STRUCTURE

- Older Americans Act Title VII (42 U.S.C. 3058g)
- Administration for Community Living/Administration on Aging – Office of Long-Term Care Ombudsman Programs
- 53 Offices of the State LTC Ombudsman
  - 446 Local Ombudsman Entities
  - 1,835 Staff
  - 4,049 Volunteers

# WHAT DOES YOUR LTC OMBUDSMAN DO?

- Identify, investigate, and resolve complaints
  - Made by or on behalf of residents
  - Relate to action, inaction, or decisions of providers, public agencies, or health & social services agencies
  - That may adversely affect health, safety, welfare, or rights of residents
- Information & assistance, non-complaint visits
- Systems advocacy

# WHAT TYPES OF COMPLAINTS DO OMBUDSMEN HANDLE? TOP 10 IN 2022

- Discharge or eviction
- Response to requests for assistance
- Medications
- Physical abuse
- Dignity & respect
- Personal hygiene
- Personal property
- Symptoms unattended
- Food services
- Other rights & preferences

# NURSING HOME FACILITY RESOURCES AND LOCATIONS

- Facility must …
  - Post contact information
  - Provide a list of pertinent agencies and groups

# RESOURCES FOR LAW ENFORCEMENT: LE GATEWAY, ETC.

- State & Local Long-Term Care Ombudsman Entities
- Adult Protective Services
- Area Agencies on Aging

# OMBUDSMAN RESOURCE CENTER

https://ltcombudsman.org/

## Find the Long-Term Care Ombudsman Program in Your State

The Long-Term Care Ombudsman program advocates for residents of nursing homes, assisted living facilities, board and care homes, and similar adult care homes. LTCOPs provide information about how to find a facility and what to do to get quality care and they are trained to resolve problems. If you are interested in volunteering for a LTCOP, click on your state for contact information and reach out to them to find out how you can volunteer in your community.

Learn more about ombudsmen →

### State Ombudsman Program

**Camille Russell, State LTC Ombudsman**

Office of the State LTC Ombudsman

900 SW Jackson Street, Suite 1041
Topeka, KS 66612
Work: (785)296-3017
Fax: (785) 296-3916
Website:
https://ombudsman.ks.gov/home

### Local Ombudsman Programs

**Region 1**
**Office of the LTC Ombudsman**

Justin Erk, Regional LTC Ombudsman

900 SW Jackson Street, Suite 1041
Topeka, KS 66612
Work: (620) 728-0180 or (877) 662-8362
Fax: (785) 663-7868
Area Served: Region 1: Barton, Dickinson, Ellsworth, Harvey, Marion, McPherson, Ottawa, Reno, Rice and Saline Counties

**Region 2**
**Office of the LTC Ombudsman**

Janette Corpstein, Regional LTC Ombudsman

900 SW Jackson Street, Suite 1041
Topeka, KS 66612
Work: (913) 236-9385 or (877) 662-8362
Fax: (785) 663-7868
Area Served: Atchison, Brown, Clay, Doniphan, Douglas, Jackson, Jefferson, Leavenworth, Marshall, Nemaha, Pottawatomie and Washington counties

**Region 4**
**Office of the LTC Ombudsman**

Lou Anne Ward, Regional LTC Ombudsman - Home Plus

900 SW Jackson Street, Suite 1041
Topeka, KS 66612
Work: (785) 480-9429 or (877) 662-8362
Fax: (785) 663-7868
Area Served: Butler, Cowley, Harper, Kingman, Sedgwick and Sumner counties - *Home Plus Only*

**Region 5**
**Office of the LTC Ombudsman**

Katie Ross, Regional LTC Ombudsman

900 SW Jackson Street, Suite 1041
Topeka, KS 66612
Work: (620) 225-2439 or (877) 662-8362
Fax: (785) 663-7868
Area Served: Barber, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Pratt, Scott, Seward, Stafford, Stanton, Stevens and Wichita counties

# SCENARIOS – LEARNING IN ACTION

# SCENARIO 1

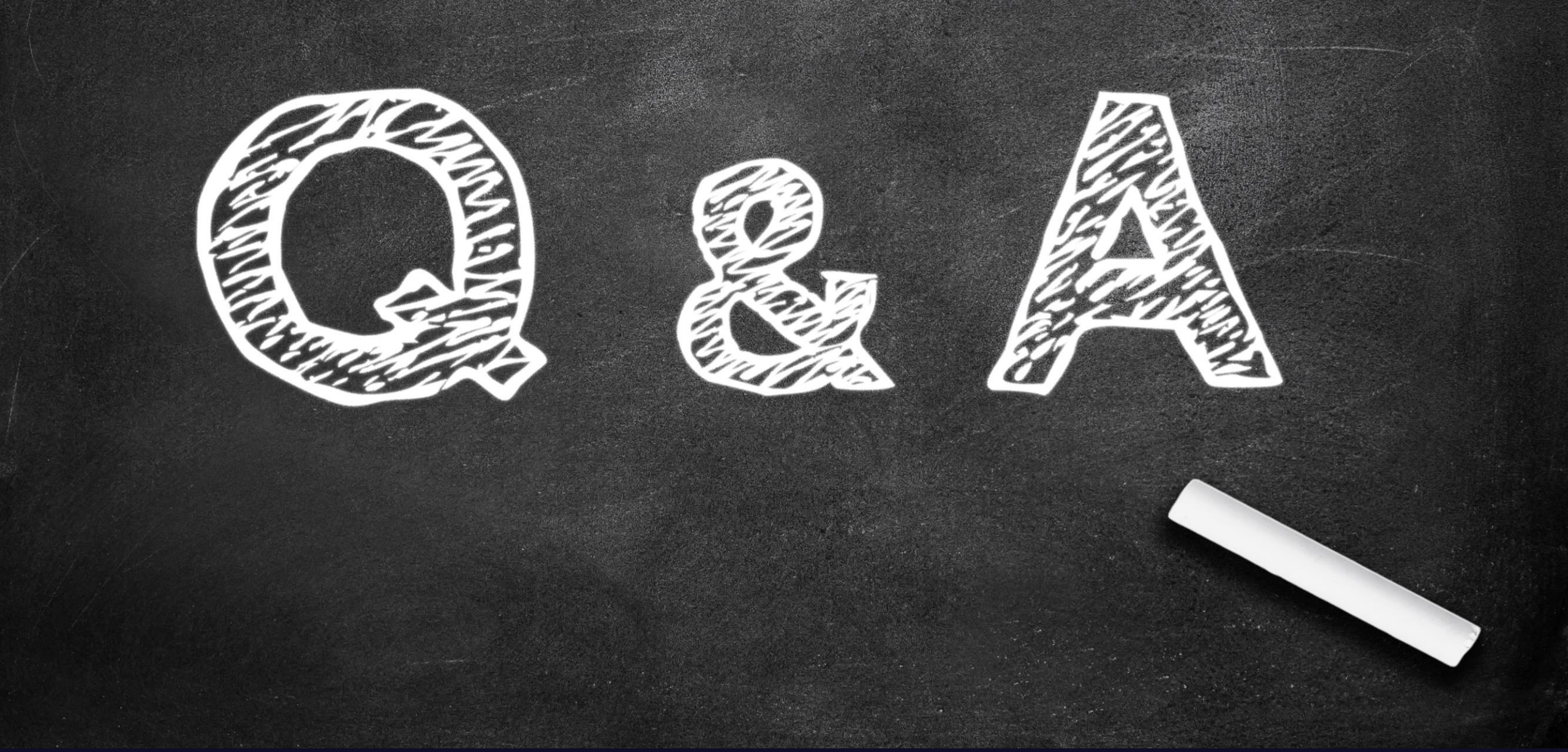
- Dispatch call to EMS at 1:00 am in August “injured resident”
- Ombudsman is notified
- EMS finds injured resident from staff abuse
- Pressure wounds and emaciated
- One nurse on duty over night
- AC not operational and rooms are overheating
- EMS assessment and call to Law Enforcement
- Law Enforcement arrives on scene
- Ombudsman takes action

# SCENARIO 2

- Dispatch call: “Snowy weather – no heat in facility with many residents”
- EMS finds facility closure and many residents needing assessment and transport
- LE and Ombudsman are on scene
- State Surveyors are on scene
- EMS, LE, and Ombudsman take action

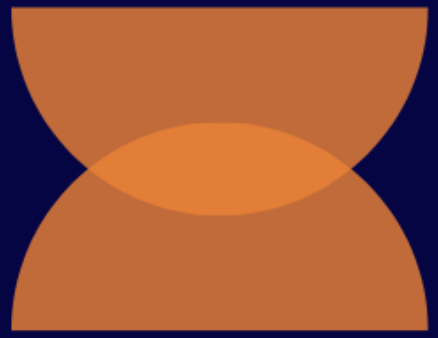
# CLOSING REMARKS

- Our duty is giving a voice to the voiceless
- Reporting and remedying abuse in a LTC facility are critical goals


Q & A

NATIONAL

ELDER JUSTICE



LAW ENFORCEMENT

SUMMIT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**Beverley Laubert**

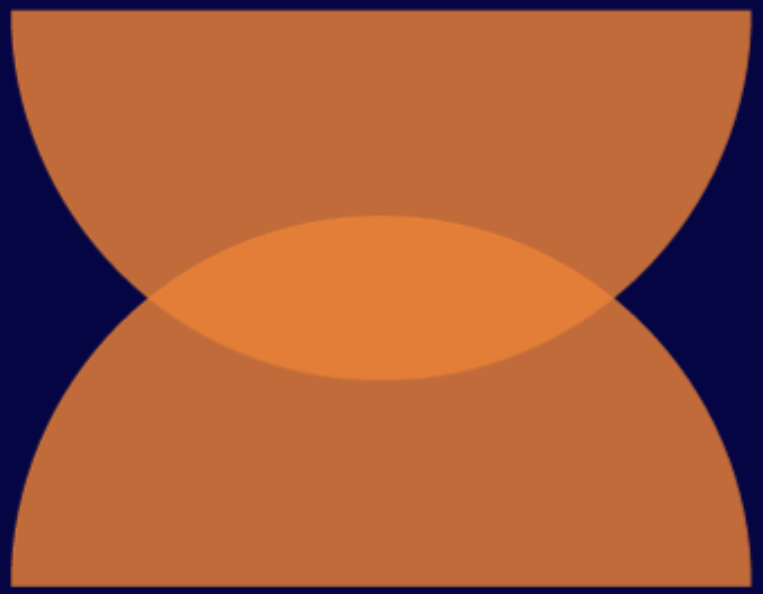
**Beverley.Laubert@acl.hhs.gov**


DEPARTMENT OF JUSTICE

Elder Justice INITIATIVE

# LONG-TERM CARE FACILITIES RESOURCES

- Directory of Medicaid Fraud Control Units Directors (scroll down the page to find Directory of MFCU Units Directors)
- Long-Term Care Community Coalition
- Center for Medicare Advocacy
- Long-Term Care Ombudsman Program (State Locator)
- Annotated Bibliography: Abuse in Long-Term Care Facilities
- APS Jurisdiction to Investigate Abuse in Facilities by State
- The National Consumer Voice for Quality Long-Term Care
- OIG "Early Alert" on reporting resident abuse and neglect, including suspicion of crimes against nursing home residents
- Incidents of Potential Abuse and Neglect at Skilled Nursing Facilities Were Not Always Reported and Investigated



# NATIONAL ELDER JUSTICE LAW ENFORCEMENT SUMMIT