

New Hampshire Department of Justice



Responding to the Needs of the Elderly

**Law Enforcement Field Guide and Resource
Manual on Elder Abuse, Neglect, and
Financial Exploitation**

STATE OF NEW HAMPSHIRE

OFFICE OF THE ATTORNEY GENERAL

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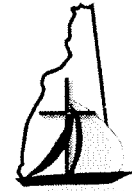
CREATED AND SUPPORTED BY:



*New Hampshire Partnership
for the Protection of
Older Adults*

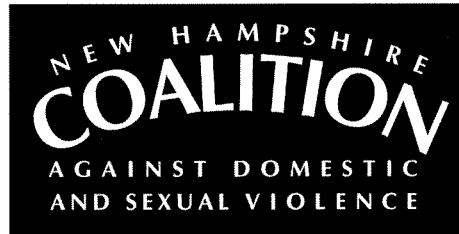


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Bureau of
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BEAS

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Policy

This manual represents a model—an ideal—for New Hampshire law enforcement's response to reports of elder abuse, neglect and financial exploitation. It was developed with the recognition that an individual agency's ability to follow the recommended guidelines will depend upon available resources. The purpose of this manual is to define certain procedures and provide options for remedies which all agencies involved in the these cases should consider. It is not intended to create substantive rights for individuals.

The overarching goal of this manual is to provide a safe environment for New Hampshire's elders, ensure offender accountability, and encourage the coordination and collaboration of the various public and private agencies that serve the needs of our seniors. Consistent compliance with the procedures set forth in this manual will greatly increase the effectiveness of the state's response to cases of elder abuse, neglect and financial exploitation.

The opinions, findings, conclusions and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the U.S. Department of Justice, Office on Violence Against Women.

Introduction

Meeting the Needs of Law Enforcement



This manual is intended to assist patrol officers, investigators, and those who work with elderly victims of abuse and exploitation throughout New Hampshire as they strive to meet the growing demands of an aging society. Its purpose is to increase awareness of elder abuse, neglect, self-neglect, and financial exploitation throughout the law enforcement community and to provide useful information, resources and guidance to officers as they assist the senior members of their communities. This manual is written specifically for police officers—to make their jobs easier, less stressful, and more rewarding by providing realistic expectations and guidelines for handling suspected incidences of elder mistreatment.

As the number of elderly residents increases statewide, law enforcement agencies throughout New Hampshire will be challenged with increased calls for service where victims or witnesses will be older. Officers will also experience an increase in calls from the elderly who may be seeking crime prevention advice. Determining how best to interact with a large number of older people will be a challenge for law enforcement and officers will need to be increasingly aware of the special needs of older citizens and the state, regional, and community resources that are available to assist them.

Collaboration among the range of professionals who serve older adults is the key to ensuring the safety of our older citizens. We hope that you find this guide a frequently used resource for all professionals who work with older persons and vulnerable adults who may be victims of abuse, neglect, and exploitation.

The guide is divided into 6 sections: The Dynamics of Elder Abuse, Investigative Strategies, Driving and the Elderly, Statutes, Referrals and Resources, and Missing Persons “Silver Alerts”. The facts of each case should be used to determine what remedies may be offered to improve victim safety and offender accountability. In many cases, multiple forms of abuse will occur at the same time and various forms of remedies are available and should be fully utilized.

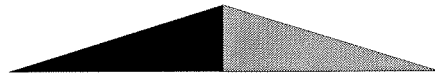
Under the criminal statutes cited, law enforcement officers may arrest abusers and prosecutors may charge them. Civil actions may be brought by an individual, a private attorney, adult protective services, or the State Attorney General’s office to provide some remedy for the victim. Victims living in residential or institutional facilities may have additional remedies available to them.

The information in this guide does not constitute legal advice. State statutes should be reviewed in their original form as they may have changed since this manual was printed. Officers are encouraged to note any changes in this manual as they occur and to contact the Office of the New Hampshire Attorney General for any errors or omissions.

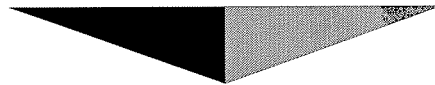
Keep in mind that this is a training guide. Because statutes change over time, users are urged to check for any changes by going to:

www.gencourt.state.nh.us/rsa/html/indexes

• **Section One** •



**The Dynamics of
Elder Abuse**





The Dynamics of Elder Abuse



Although no one truly knows precisely how many incidences of elder abuse, neglect and exploitation occur on a yearly basis, professionals agree that a significantly large portion go undetected. Studies have estimated that only one in fourteen cases of elder abuse and neglect, and one in twenty-five cases of elder exploitation come to the attention of authorities. Because the elderly are unlikely to report being victimized, it is incumbent upon law enforcement officials to be familiar with the signs and symptoms of abuse, neglect, and exploitation and have a comprehensive and collaborative response plan in place to protect elderly victims from further harm.

This manual represents a concerted effort to raise awareness throughout the law enforcement community concerning the existence and prevalence of elder abuse, neglect, and exploitation. It is designed to provide officers with an overview of elder abuse, what it is, why it occurs, how to recognize it, and how to effectively intervene so that the elder is protected and perpetrators are held accountable.

Although various agencies exist throughout New Hampshire that serve the needs of the elderly, law enforcement officials will often be the first responders in most cases of abuse, neglect, and exploitation. Law enforcement agencies will not always have the resources to resolve problems that elderly citizens encounter, but they can take significant steps in reducing older adults' fears and in providing referrals that will give older adults remedies that may preserve their health, dignity and independence.

With the graying of New Hampshire's population, the term "elder abuse" will soon have the same familiarity as spousal abuse and child abuse. As such, law enforcement officials are encouraged to treat any suspected cases of elder abuse, neglect, and exploitation with the same amount of professionalism and dedication as any other serious crime.

Elder abuse, like other forms of violence, is never an acceptable response to any problem or situation, however stressful. If abusers are not identified and held responsible for their actions, 1) victims will not be safe, 2) victims will not reach out for help again, and 3) a message is sent to abusers that they can do whatever they want to older victims with no consequences. Effective interventions can prevent and even stop the abuse. By increasing awareness and training among the law enforcement community, patterns of abuse can be stopped and prevented.

The information in this guide does not constitute legal advice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the U.S. Department of Justice, Office on Violence Against Women.

Who are the elderly?

“A test of a people is how it behaves toward the old. It is easy to love children. Even tyrants and dictators make a point of being fond of children. But the affection and care for the old, the incurable, the helpless are the true gold mines of a culture.”

– Abraham J. Heschel

It is important to first describe the population that can be affected by the problems of abuse, neglect, self-neglect, and financial exploitation before actually discussing the types of mistreatment in detail.

One of the reasons why national statistics on reported elder abuse are so difficult to obtain is because most states provide varying definitions on what constitutes an “elderly person.” For the purposes of this manual, the following definitions are utilized:

ADULT

Anyone who is 18 years of age or older. RSA 631:8.

ELDERLY ADULT

An individual who is 60 years of age or older. RSA 631:8.

DISABLED ADULT

An adult who has a diagnosed physical or mental impairment. RSA 631:8.

IMPAIRED ADULT

Any adult who suffers from an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic intoxication or use of drugs, memory loss, or such other cause that causes an adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning their person or property or to provide for his or her own care.

CAREGIVER

Any person who has been entrusted with, or has assumed the responsibility voluntarily, by contract, or by order of the court, for frequent and regular care of or services to an elderly, disabled, or impaired adult, including subsistence, medical, custodial, personal, or other care, on a temporary or permanent basis. A caregiver shall not include an uncompensated volunteer, unless such person has agreed to provide care and is aware that the person receiving the care is dependent upon the care provided. RSA 631:8.

Defining Elder Abuse

Elder abuse includes the physical, sexual, emotional, or financial abuse or neglect or abandonment of an older adult. It may be committed by a family member, a friend, a fiduciary, a paid or private caregiver, or any other person. Each year hundreds of thousands of vulnerable adults are abused, neglected, and exploited by those closest to them. Many victims are people who, because of age, physical impairments, or mental decline cannot help themselves and are completely dependent upon others to meet their most basic needs.

Under New Hampshire law, crimes committed against a competent elderly person are treated like crimes committed against other competent adults, regardless of age. However, a defendant may be sentenced to an extended term of imprisonment if he or she has committed an offense involving the use of force against a person with the intention of taking advantage of the person's age or physical disability or if he or she has committed or attempted to commit any of the crimes defined in RSA 637 (theft) or RSA 638 (fraud) against a victim who is 65 years of age or older or who has a physical or mental disability. *See* RSA 651:6. Elder abuse can take many forms. They are best identified as:

Physical Abuse

The causing of physical pain or injury. It includes, but is not limited to, hitting, slapping, shoving, cutting, burning, hair pulling, or forcible restraint.

Sexual Abuse

Sexual abuse is any non-consensual sexual contact, or sexual contact with a person who is incapable of giving consent. Examples include aggravated felonious sexual assault, felonious sexual assault, and sexual assault.

Psychological / Emotional Abuse

The infliction of mental pain or anguish typically caused by ignoring, insulting, threatening, or demeaning the elder. It can also include controlling behaviors such as isolation from friends or relatives. Psychological /emotional abuse can often lead to physical abuse or neglect.

Neglect

The failure or omission on the part of a caregiver to provide the care, supervision, and services which he or she has voluntarily, or by contract, or by order of the court agreed to provide and which are necessary to maintain the health of an elderly, disabled, or impaired adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would consider necessary for the well-being of an elderly, disabled, or impaired adult. Elderly victims of neglect are often found malnourished, dehydrated, suffering from untreated skin wounds and living in unhealthy and unsanitary conditions.

Officers should be aware that more than one form of abuse might be occurring simultaneously. As a result, if you suspect one form of abuse, investigate for other forms.

Why does elder abuse exist and persist?

Elder abuse is a complex problem that can result from varying causes, among them family dysfunction, caregiver and cultural issues, and greed. Discord within the family created by a history and pattern of violent interactions can contribute to the occurrence of elder abuse. In some situations, elder abuse is simply a continuation of abuse that has been occurring in the family over many years. Sometimes, a victim who has been abused for years may turn his or her rage on their spouse when their health fails. If there has been a history of violence in the family, an adult child may take the opportunity to turn the tables on the abusing parent by withholding nourishment or overmedicating the parent. Abuse, neglect, and exploitation can be explained by:

Power and control

Most elder abuse offenders are able to control their behavior. The offenders choose to harm or steal from an older individual. Some offenders want to gain and maintain power and control in the relationship and they set the rules to which the victim must adhere. Some adult children will treat one or both of their parents like servants. These adult children will expect their parents to give money to and serve them. Offenders use actual and assumed power to gain and maintain this control.

Greed in cases of financial exploitation

Some financial exploiters are simply greedy. Their goal is to take whatever they want and steal from the older person. Their victims may be able to come and go as they please and may not be subject to classic power and control dynamics, but the older individual often experiences a combination of forms of abuse including financial, physical, neglect, and emotional.

Other dynamics

Like domestic violence involving younger victims, an elder abuse offender is often known by and in an ongoing relationship with the victim. Often the tactics used in elder abuse cases are similar to the power and control dynamics used against younger battered men and women. Therefore, many of the tools and strategies law enforcement officers effectively use with younger victims will be useful in many elder abuse situations.

Family stress is another factor that can trigger elder abuse. When a frail or disabled older parent moves into a family member's home, the lifestyle adjustments and accommodations can be staggering.

* NONE of these examples is meant to excuse the perpetrator's actions or influence the thoroughness of the officer's investigation. There are thousands of caregivers throughout the country who are under a great deal of stress while caring for an elderly parent, relative, or patient. Very few of those caregivers resort to abuse as a method of coping with their stress. As it has often been said, *abuse is primarily about power and control.* This is just as true with elder abuse as it is with domestic violence and sexual assault.

Four Key Points to Remember

- **Focus on victim safety:** Sometimes, intervention by an outsider may increase the risk of danger for the older victim. Officers should focus on ensuring that the victim has information about services, safety plans, protective orders, and alternative care providers if the abuser is a caregiver.
- **Be aware of and avoid assumptions:** Everyone makes assumptions—officers, victims, suspects, professionals, family members, and others—and these assumptions can significantly impact an investigation. It is important to learn about the assumptions that both suspects and victims may have about law enforcement and the criminal justice system. Victims, suspects, witnesses, and others from various racial and ethnic populations may have had negative past experiences with law enforcement, may fear law enforcement, and may be reluctant to report abuse or cooperate with an investigation. In order to obtain the best information possible, officers should be aware of their own assumptions about older adults, older adults with disabilities, victims, and suspects. For example, officers may view elder abuse as less dangerous than other crimes and may not consider officer and victim safety as they would in other cases. Use critical thinking to challenge and overcome assumptions by openly assessing, validating, and clarifying beliefs.
- **Recognize abuser tactics:** Abusers may lie, manipulate, and justify their behavior. Law enforcement and other professionals may believe the excuses the abuser makes and therefore may not conduct a thorough investigation.
- **Work Collaboratively:** Working collaboratively with other agencies often lessens workloads and can reduce potential complications. Elder abuse cases are generally too complicated to work alone. In most cases, officers will be working with or obtaining information from adult protective services (APS) workers, aging network professionals, domestic violence and sexual assault advocates, prosecutors, health care providers, and persons responsible for regulating and investigating allegations in facility settings.

Who are the abusers?

Like domestic violence involving younger victims, an elder abuse offender is often known by and in an ongoing relationship with the victim. Often the tactics used in elder abuse cases are similar to the power and control dynamics used against younger battered women. Therefore, many of the tools and strategies law enforcement use effectively with younger battered women will be useful in many elder abuse situations.

Where the abuse involves elderly victims, abusers often take advantage of the victim's vulnerabilities. For example, an abuser may break or hide glasses or dentures, move a walker too far away to be reached or refuse to translate material written in English to the victim's first language. Abusers also target the most cherished things in a victim's life in order to gain control over him or her. Examples of this behavior include not allowing a victim to go to church or synagogue or demeaning a person's cultural values and practices.

Abusers are often:

- *Intimate partners (long-term, new relationships, late onset).*
- *Partners in heterosexual and gay and lesbian relationships (includes dating relationships).*
- *Adult children and other family members.*
- *Caregivers.*
- *Others in positions of authority (administrator of a trust, a representative payee, a guardian, a person with power of attorney, a translator, etc.).*

In many cases, individuals are doing their best to provide care but fail in their responsibilities because they lack the skills or physical ability to meet the demands of the one for whom they are caring. For example, an adult child who has a developmental disability and is living with his parents may not be able to provide care for them as they get older, or a 90-pound woman may not be able to properly turn her 250-pound husband who is unable to get out of bed. In these cases, the caregiver may not have the intent to harm the older individual and adult protective services (APS) intervention may be what is needed.

Some abusers may try to excuse the harm caused to the older individual by saying that they do not have the proper skills or training to provide care. The abusers may be attempting to avoid accountability for their abusive behavior or to thwart a possible investigation. In some cases, their real motivation is financial exploitation and they are capable of providing quality care but choose not to.

In all cases, law enforcement should be careful not to jump to conclusions about whether or not the caregiver is well intended. They should focus on the elements of the crime, gather evidence of the older adult's financial situation, involve APS when appropriate, and consult with prosecutors as necessary.

Keep in mind that abusers often use a variety of justifications and excuses for their behavior. For example, a caregiver may claim that he or she has a medical condition that leads to abusive behavior. Officers should verify if the medical condition exists, if abusive behavior is a possible outcome, and whether or not the aggressive conduct is new or has been occurring for any length of time.

Common Justifications and Excuses

Abusers use rationales and excuses, like caregiver stress, to deflect responsibility from themselves. They also attempt to convince law enforcement and others not to hold them accountable for their actions – specifically not to arrest them if a crime has been committed.

Abusers will often lie and try to manipulate law enforcement using many of the same strategies that have been effective with the victim, friends, and family. Many abusers are charming and helpful with professionals. In rarer cases, they will be angry and belligerent—especially if they are being held accountable or fear that the victim is being offered help and services. In other cases, they may willingly talk about their behavior, assuming that if they explain it, others will agree with them.

In addition to caregiver stress, abusers often use other excuses or justifications to explain away their abusive behavior so they will not be held accountable. Some explanations focus on **blaming the victim**:

- “*She’s clumsy.*” (accident)
- “*She didn’t do what I wanted.*” (victim’s behavior)
- “*She started it.*” (mutual abuse)
- “*He is too difficult to take care of.*” (caregiver stress)

Other justifications make excuses for the **abuser’s behavior**:

- “*I have a problem with my temper.*” (anger)
- “*I was drunk or high.*” (substance abuse problem)
- “*I’m sick. It’s not my fault.*” (physical or mental health issue)
- “*He hit me when I was a child.*” (learned behavior)
- “*In my culture, elders share their resources.*” (culture)

Abusers often:

- Lie
- Manipulate
- Charm
- Justify their behavior
- Blame the victim and others

Like domestic violence involving younger victims, anger, caregiver stress, and alcohol and other drug use may co-exist with the abusive behavior, but these issues **do not** cause the abuse. Offenders choose to use abusive tactics to get what they want.

Abuse is never the victim’s fault

If a claim of elder abuse is disregarded based solely on the alleged abuser’s statement, without further investigation 1) victim safety is not addressed, 2) victims may not reach out for help again, 3) the offender is not held accountable—may not be arrested or prosecuted, and 4) a strong message is sent to abusers that they can do whatever they want to older victims with no consequences.

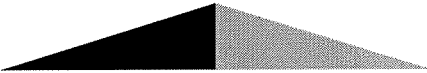

Caregiver Stress

Caregiver stress describes emotions and feelings that some people experience when they are responsible for caring for a person with medical needs or disabilities. Some caregivers feel overwhelming stress, isolation, and possible resentment. In some cases, caregivers will engage in substance abuse or self-medication, or suffer health problems as a result of the stress.

Early elder abuse research concluded that caregiver stress was a primary cause of elder abuse. This research suggested that an overwhelmed, stressed caregiver who is providing assistance to a frail, older person may at times unintentionally “snap” and become neglectful or emotionally or physically abusive.

Some initial studies of elder abuse were based on interviews with the abusers who described being overwhelmed and stressed – which caused them to abuse the older individual. Unfortunately, researchers did not take into account that abusers lie, manipulate, justify their behavior, and blame the victims, so their explanation of caregiver stress was promoted as a primary cause of elder abuse in early literature and work in this field. Current research does not support caregiver stress as the primary cause of elder abuse.

While caregiving can be stressful, most caregivers provide loving, gentle care. As such, there are a number of problems with believing that caregiver stress causes elder abuse:

- 
- Everyone experiences stress but most people do not abuse, neglect, or exploit a parent or partner. Most people meet their caregiving responsibilities even if they have a bad day.
 - The target of the abuse is the older adult, not anyone else. In most cases, the perpetrator does not abuse persons with more power (boss) or peers (friends). Rather, the target of the harm is the older person.
 - Generally, abusive behavior is a pattern and not an isolated incident.
 - We would not tolerate similar circumstances with children or pets. Too often professionals have walked away from severe physical or sexual abuse or neglect because they believed the caregiver’s explanation of significant stress and left the older individual in harm’s way.
- 

Why would an elderly victim stay with or return to an abuser?

Dependence Upon the Abuser

Elderly victims of abuse, neglect, or exploitation are often completely dependent upon their abuser. This dependence gives the abuser a great deal of power and control over the elder. As such, victims are less likely to report being abused and are more reluctant to cooperate in a prosecution of the offender. It is important for law enforcement officers to understand and appreciate the dynamics that may exist which would motivate an elderly victim to stay with or return to an abuser.

Fear

Fear often prevents elderly victims from seeking help. Victims may fear that disclosure will lead to greater harm. Victims may also fear that they will not be believed by family members, friends, or law enforcement.

Many victims fear a loss of independence if the abusive caregiver is arrested and removed from the home. Victims may tolerate the abuse because the alternative is worse (*i.e.* loss of independence and removal to a facility). In some cases, victims may even fear deportation if law enforcement becomes involved.

Religious or Cultural Beliefs

The notion that “what happens at home is private” may prevent elderly victims from escaping abusive situations. Victims may be embarrassed by the abuse and may not want others to know that such events occur within their families. Where the abuser is the elder’s adult child, victims may experience a sense of shame or guilt for the behavior of their sons or daughters.

A victim’s faith and values may lead to a belief that leaving a marriage is a sin regardless of the ongoing abuse. In some cultures, the abusers do not consider their behavior to be abusive and older women may not realize that they are being abused.

Loss of Identity and Sense of Belonging

Often, elderly victims of abuse will remain at home because, despite the abuse, this is where they feel most comfortable. They are surrounded by personal possessions (photos, furniture, clothing, medicines) that have a great deal of meaning and provide comfort. Leaving the home to reside in a hospital, assisted-living facility, or crisis center deprives them of part of their identity and sense of belonging.

Lack of Affordable Housing

Many older victims do not have anywhere to go in a crisis or life-threatening situation. Some crisis centers or group homes may not be equipped to meet the needs of, or provide services for an older adult who may have a medical condition or disability. Many shelters do not accept pets, which can be a factor where the elderly victim refuses to leave home without his or her cherished pet.

If a victim leaves or threatens to leave, the abuse or violence often becomes more severe and may be directed at others (children/grandchildren, family, friends, and neighbors). Victims fear what the batterer will do to them, their children or grandchildren, family, pets, friends, and personal belongings.

Understanding the reasons why victims do not leave an abuser or return to live with an abuser can assist officers in understanding common victim behaviors. Officers should be prepared for the possibility that a victim may:

- Recant.
- Withhold information.
- Protect the abuser rather than focus on personal safety.
- Leave the abuser only to return home later.
- Not follow through with an investigation only to call law enforcement for help again a few weeks or months later.
- Not listen to “advice” from law enforcement or others.

Being Aware of and Avoiding Assumptions and Stereotypes

Everyone makes assumptions—officers, victims, suspects, professionals, family members and others—and these assumptions can significantly impact an investigation. Officers must be consciously aware of any assumptions that they may have when responding to the needs of elderly victims of crime. Every allegation of elder abuse, neglect, or exploitation must be thoroughly investigated.

- Do not assume that a victim is incompetent simply because of their age. Competency involves a broad spectrum of activities and changes over time. If competency is an issue, you should seek an expert evaluation that uses functional tests to determine competency. Conduct your investigation as you would any other investigation.
- Recognize abuser tactics. Abusers may lie, manipulate, and justify their behavior. Law enforcement and other professionals may believe the excuses the abuser makes and therefore may not conduct a thorough investigation.
- Do not allow the possibility that the victim will be unable or unwilling to testify against the abuser to affect the quality or thoroughness of your investigation. Understand and appreciate the difficult circumstances that victims may be in when their child, friend, or sole caregiver is the suspected abuser.



Victim Issues and Concerns



Capacity

The linchpin for whether or not a crime may have occurred is the mental capacity of the elderly victim or the amount of undue influence exerted upon him or her. When considering the victim's capacity, ask yourself: does the victim have the mental capacity to give consent or agree, and does the victim understand the consequences of his or her actions?

In instances of financial exploitation, capacity becomes important if the suspect argues that the victim knew what was taking place and gave his or her consent. Incapacity means a legal (not a medical) disability and is measured by functional limitations. Pursuant to New Hampshire RSA 464-A:2, a person is incapacitated when:

- He or she has suffered, is suffering, or is likely to suffer substantial harm due to an inability to provide for his or her personal needs for food, clothing, shelter, health care, or safety or an inability to manage his or her property or financial affairs;
- A person's inability to provide for personal needs or to manage property must be evidenced by acts or occurrences, or statements which strongly indicate imminent acts or occurrences.

Even though "incapacity" is a legal definition, medical records and a medical evaluation can be instrumental in determining capacity. As such, a victim's medical records should be obtained as soon as possible after an incident has occurred when questions of capacity are raised. Medical records may be obtained from a legal guardian, a grand jury subpoena, or from the Bureau of Elderly and Adult Services (if it has obtained those records independently as part of their protective investigation).

In cases of financial exploitation, suspects will often state that the elder gave them the money or property as a gift or, if only money is involved, that it was a loan. If the victim had the capacity to manage his property or legal affairs and there is an absence of undue influence or coercion, a crime may not have occurred. If, however, it is unclear whether the elder had the capacity to manage his property or legal affairs during the time that the alleged "gifts" or "loans" were made, then a criminal investigation may be warranted.

Undue Influence

Undue influence is the substitution of one person's will for the true desires of another. Often compared to brainwashing, it may occur over a period of time during which the elder's willpower is worn down by the exploiter to the extent that the exploiter's desires are substituted for that of the elder. The exploiter gains psychological control over the decision-making capabilities of the elder with the goal of convincing the elder to give consent or sign over money, property, or other valuables to the exploiter.

Undue influence does not refer to a crime itself, but provides a theory for the way in which a fraud, theft, or other form of financial exploitation was committed against a person. Unlike common persuasion and sales techniques, fraud, duress, threats, or other deceits are often components of undue influence. The focus becomes whether the perpetrator engaged in tactics that had the effect of stripping the elder of his or her own free will. If undue influence exists, the elder's freedom to choose has been compromised and criminal charges should be considered. Consider the following:

Edward is 85 years old and has 2 adult children. Edward is a widower, lives alone and exhibits no sign of mental or physical incapacity. His 35-year-old female neighbor began visiting Edward just after his wife died. She goes to his house every day, runs errands for him, takes him out to eat and shows him affection. Edward told his children that he cares deeply for the neighbor and calls her his "girlfriend." He has bought her a car, paid her mortgage, gives her spending cash and claims that he wants to change his will to leave her his house. Edward's children are upset with their father's behavior and feel as though the woman is exploiting him. Edward has been frugal with his money his entire life and his recent elaborate spending is completely out of character. Edward's children go to the police for assistance.

As the investigating officer you should first consider whether Edward has sufficient mental capacity to understand the consequences of his actions. Inquire of the children whether Edward has been diagnosed with any medical conditions that would affect his decision-making capability. If Edward is not incapacitated, understands the nature and consequences of his actions, and the property was given voluntarily (without threats, force, or undue influence) then a crime has not occurred.

If, however, the neighbor used threats, lies, coercion, or some force to unduly influence Edward to part with his money then you should investigate further to determine if Edward relied upon such threats or coercion in his decision-making. DO NOT let cases of undue influence "slip through the cracks" because fear and coercion may not be readily apparent. Focus your investigation on whether the perpetrator engaged in tactics that stripped the elderly victim of his or her free will and consult with your prosecutor to determine if criminal charges are appropriate.

Interviewing the Cognitively Impaired

- ***Attorney Dennis J. Morris,
San Francisco CA District
Attorney, Ret.***

The Purpose of Interviewing Cognitively Impaired Victims

Upon learning of an elder abuse case, the first inclination of a responding officer should be to determine the victim's mental state. Whether the victim possessed the capacity to consent to financial transactions and whether the victim will be a competent witness at a hearing or a trial are usually issues in elder abuse cases.

The initial evaluation of the victim's capacity or competency should be made at an interview—the sooner the better—and the interview should be memorialized, preferably by videotape. A victim's capacity may be tested with mental status questions about the date, the day of the week, the identities of the President and the Governor, family members, personal living arrangements, and assets. Ask day in the life-type questions to “humanize” the victim and to show that the victim does not understand and cannot communicate information. Ascertaining the overall functioning of the victim will help to establish the victim's lack of consent or susceptibility to undue influence and pressure.

After interviewing the victim, an officer should be able to determine whether mental functioning is an issue. If it is, it is incumbent upon the officer to make these concerns known to the prosecutor in order to obtain a mental health assessment by a multi-disciplinary medical team. Such a team ideally should be composed of a medical physician specializing in geriatrics, a geriatric psychiatrist, and a clinical geriatric psychologist. With careful evaluation, an expert may discover dysfunctional social skills, significant mental confusion as to financial matters, or susceptibility to undue influence even when a victim seems to be functioning appropriately.*

Record the Interview

The interview of a cognitively impaired victim should be recorded whenever possible. Videotaping is especially important where the victim is very elderly or very ill. By the time the jury trial occurs, the victim may not be available and viewing the videotape may be the only way the jury can see the victim.

A videotaped interview may often reveal hidden clues to undue influence. The victim may often be observed to look for, or acquiesce to, the abuser. Such behavior may indicate the existence of undue influence. A videotaped interview can also rule out suggestiveness or overreaching by the interviewer, thus negating such issues at trial.

A videotaped interview may clearly show the victim's level of functioning. The videotape may corroborate testimony from an expert or other witness or form the basis for an expert opinion. If an expert relies upon the video in formulating an opinion, the video can be admitted as evidence of the victim's mental state and as evidence relied upon by the expert.

* In New Hampshire, such an evaluation would typically be conducted by a Geriatric Psychiatrist.

Preparing for the Interview

The investigating officer should go to the interview fully prepared. It is highly recommended that the officer be accompanied by the prosecutor assigned to the case, an adult protective services worker, and a victim advocate if one is available. Notes of proposed questions should be prepared ahead of time, and essential evidence such as forged checks, durable powers of attorney, or deeds should be available for the victim to review and comment upon.

Schedule the interview for a time when the victim is at his or her best—usually mid-morning for an elder victim (consult with the victim's physician or caretaker). When possible, conduct the interview in a setting familiar to the victim and where the victim is most at ease. Avoid unfamiliar settings (e.g., the police station) and settings which are too traumatic (e.g., the crime scene), too public (e.g. the public area of a nursing home), or too noisy and distracting. It is further recommended that there be an effort to minimize the number of interviews.

Before the commencement of the actual interview, look at the physical surroundings of the location where the interview will be conducted. Determine a suitable location in a room for the interview.

Conducting the Interview

It is imperative that the victim not be within earshot or eyeshot of the suspect during the interview. The reasoning for the separation is articulated by Dr. Jay Luxenberg of the University of California at San Francisco-Mt. Zion Hospital:

[I]ndividuals that have impairment of judgment are very susceptible to control and suggestion by other people. There is a tendency that is almost irresistible to answer for elderly persons, because they cannot answer quickly and they may not be able to answer at all. So another person (the abuser) just chimes in. It is one of the important things I have learned, you need to examine that person without the other people around.

Address the person by his or her last name unless you are given permission to use some other name. Explain to the victim why you are there and who you are. Be sure the victim knows that the interview is confidential up until a certain point where the information will need to be discovered. Make sure the victim feels as safe and as free from threats as possible.

Make sure the victim can hear you and focus on you. Many elderly persons have vision problems—conduct the interview in an area that is sufficiently lighted but free of glare. Try to have the victim face away from possible glare such as a bright window. During the interview, face the victim at his or her eye level. Do not stand over or above the victim. Make sure the victim can see your face and your lips.

Speak slowly and clearly, but do not shout. Keep questions short and avoid complex or compound questions. Select simple words and phrases and keep the pace relaxed. Do not rush through the interview. Give the victim time to process the question and formulate the answer. Ask only one question at a time and wait for it to be answered before asking follow-up questions.

Conducting the Interview, Cont'd.

Assess the victim's language skills. This is especially important for discussions about body parts, sexual abuse, and financial transactions. As appropriate for your case, find out how the victim refers to body parts, sexual acts, loans, and property transfers. If sexual abuse is a potential issue, determine whether you will need an "interpreter" to explain what a victim calls something. Once you learn the victim's terms, use them during the interview. Do not try to get the victim to use common words and phrases that the victim will not fully comprehend.

If the victim is nonverbal, use diagrams, dolls, or photographs. Be careful to avoid any suggestiveness. Avoid making any personal judgments in the presence of the victim. Avoid communicating disgust, discomfort, shock, disapproval, or embarrassment. When using or reviewing exhibits with the victim, show the exhibits one at a time and describe for the taped record exactly which item you are discussing. If you are reviewing questioned checks, use the following example:

"Mrs. J., please look at check number 123, dated June 30, 1995. Do you recognize this check? Is that your signature? Did you give anyone permission to have or possess this check? Did you sign this check or give anyone permission to sign your name? Did you give [insert suspect's name] permission to have this check? Did you give the suspect permission to receive the proceeds from this check?"

Begin the interview with general and non-threatening topics and then move to the more specific and uncomfortable. It is wise to then return to general topics and conclude with a friendly ending. Questioning may go as following:

- *What is your name?*
- *What is your age or date of birth?*
- *Where do you live?*
- *With whom do you live?*
- *Who is in your household?*
- *How do you typically spend the day?*
- *What do you do when you first get up in the morning?*
- *Does anyone help you, such as preparing breakfast?*
- *How long has the suspect helped you?*
- *How did you meet the suspect?*
- *Is the suspect paid for his or her services?*
- *Who pays the suspect?*
- *How much is the suspect paid?*
- *What, exactly, are the suspect's duties?*
- *I sense from your response that your feelings about the suspect have changed. What caused the change?*
- *Has the suspect ever hurt you? How many times? Tell me about the worst time. Tell me about the first time.*
- *Do you worry about who will help you if the suspect is not here?*
- *That is one of the reasons that I am here. I can offer you help with... so you do not need to be worried about...*
- *End with a question such as "Is there anything else you want me to know?"*

Always thank the victim and tell the victim that he or she has been very helpful. Tell the victim what will happen next and what to do if he or she thinks of any other information.

If you conduct the interview at the victim's residence, be observant of any evidence within eyesight such as credit cards or bills addressed to the suspect or certain medications. With the victim's consent, check the refrigerator to determine if there are adequate foods and resources. Ask the victim where any additional documentation or evidence is located and ask to be directed to that evidence.

Things to Discuss During the Interview

Determine the victim's attitude toward the suspect and the relationship between the victim and the suspect. Delve into the history between the victim and the suspect. When and how did they meet? What did the victim authorize the suspect to do? What were the duties of the suspect? Was the suspect a caregiver? Did the suspect receive a salary or compensation? How much? Did the suspect initially perform as requested or expected? When did matters change?

Does the elderly victim understand that something has occurred? If so, what made the victim suspicious? Was it a series of events or one particular occurrence? Identify individuals with key roles in the victim's life. Ask for the full name, phone number, and address of the victim's personal physician. Learn about the victim's close friends and neighbors. Determine who are the victim's banker, financial advisor, and broker. Are the victim's affairs being handled by a lawyer, guardian, or conservator?

Ask the victim about his or her medical condition and history. Is the victim being forthright? Has the suspect told the victim something different about his or her medical condition? Determine the type and dosage of the victim's prescription medications. Who is the prescribing doctor? Is the prescribing physician the victim's general physician? Ask the victim who dispenses the medication and when. Does the victim know what pharmacy the medication originated from and the date the prescription was filled?

Ask the victim about the allegations or events at issue. What does the victim think the suspect will say about any of the allegations presented? At this point the interviewer can anticipate some probable defenses that may have already been fed to the victim:

- a. *In a physical abuse case*—has the suspect told the victim it was an accident, a normal part of aging, denial, or a figment of the confused elder's mind?
- b. *In a neglect elder abuse case*—has the suspect told the elder victim that this is what the elder wanted (right to folly), that it was an accident, that there was a lack of intent, or that the suspect was a stressed caregiver?
- c. *In a sexual elder abuse case*—the defense will center on consent or on an argument that the event never occurred.
- d. *In a financial abuse case*—look for the defense of consent, or the argument that "it was a gift," "it was my inheritance," or "it was a loan/debt." Look for all of the above possible defenses when discussing the allegations and the victim's perceptions of what the suspect may have relayed to the victim. Such perceptions may be very revealing.

Things to Discuss During the Interview, Cont'd.

Ask the victim more day-in-the-life-type questions about the periods before and after the events in issue. Determine how the events changed the lives of the victim and the suspect. Was the victim's life degraded while the suspect's lifestyle was enhanced at the expense of the victim?

When interviewing a victim of financial exploitation, focus on the inevitable consent issues. Did the victim actually give consent, for example, actually say the words? A suspect's claim that the victim said a house was the suspect's does not prove the victim actually said the words. If the victim did complete a transaction, did the victim understand what he or she was giving or transacting? Did the victim understand the legal significance of his or her actions? Was the act voluntary?

Ask the victim about his or her assets: bank accounts, CDs and other bank instruments, stocks, bonds, investment accounts, home furnishings, collections, antiques, art, furs, jewelry, vehicles, boats, real estate, credit cards, wills and trusts, safety deposit boxes, and insurance policies. Determine the whereabouts of these assets as well as who controls them and additional legal mechanisms that may be in place. The additional legal mechanisms may include powers of attorney and contracts.

Does the victim understand the effects of the above documents? For example, if there is a questionable deed involved, ask the victim if they signed the deed, is it their signature? What is a deed? What does it mean that the caregiver's (suspect's) name is on the deed? Can the caregiver evict the victim now that the victim has signed the deed? Where would the victim live if that happened?

When interviewing the victim determine what their spending pattern was before they became involved with the suspect and after. Often, the victim was miserly before the suspect came into their lives and after the incursion of the suspect there is an appearance of heavy spending that is quite uncharacteristic for the elder victim, especially one who is cognitively impaired.

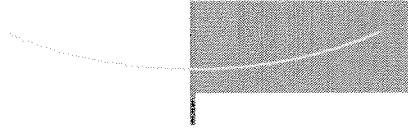
The interview of a cognitively impaired victim, especially an elder, can be a goldmine of information both for the personal benefit of the victim and the benefit of a criminal investigation. As such, officers must take full advantage of the opportunity to interview a victim and to do so in a thoughtful and caring fashion that will aid both the victim and the prosecution. It is important to keep in context that the interview of a cognitively impaired victim is to be used to investigate and gather evidence of crimes and to reinforce that investigation and eventual prosecution with evidence of cognitive impairment that would clearly illustrate the lack of ability to consent to any transactions thus overcoming possible defenses.

Remember: an interview of a cognitively impaired victim is an opportunity to assess the victim's level of functioning, confusion, understanding, forgetfulness, communication skills, and self-help skills. The victim's well-being should always be the priority. As such, always take into consideration the victim's special needs and impairments for which the victim requires assistance.

Dennis Morris was a prosecutor for the District Attorney's Office of the City and County of San Francisco from 1983 to 2010. His assignments have been in the Special Prosecutions Unit where he prosecuted white collar crime (including elder financial abuse cases), the Felony Rebooking Unit, General Litigation, and the Narcotics Strike Force. Attorney Morris is currently retired and resides in San Francisco. This article was reprinted with his permission.



Cultural Issues and Elder Abuse



Certain social attitudes make it easier for abuse to continue without detection or intervention. These factors include the devaluation and lack of respect for older adults and society's belief that what goes on in the home is a private "family matter."

Certain cultural factors, such as language barriers, make some situations more difficult to distinguish from abuse or neglect, and it is important not to ignore abuse by attributing the cause to cultural differences. However, before reporting abuse, anyone working with older people should be sensitive to cultural differences and not mistake these for abuse or neglect. Definitions of what is considered "abuse" varies across diverse cultural and ethnic communities.

Respect and Dignity

Lack of respect for the elderly may contribute to violence against older people. When older people are regarded as disposable, society fails to recognize the importance of assuring dignified, supportive, and non-abusive life circumstances for every older person.

The idea that what happens at home is "private" can be a major factor in keeping an older person locked in an abusive situation. Those outside the family who observe or suspect abuse or neglect may fail to intervene because they believe "it's a family problem and none of my business" or because they are afraid that they are misinterpreting a private quarrel. Shame and embarrassment often make it difficult for older persons to self-report abuse. They don't want others to know that such events occur in their families.

Religious Beliefs

Religious or ethical belief systems sometimes allow for mistreatment of family members, especially women. Those who participate in these behaviors do not consider them abusive. In some cultures, women's basic rights are not honored, and older women in these cultures may not realize they are being abused.

Abuse in Later Life Wheel



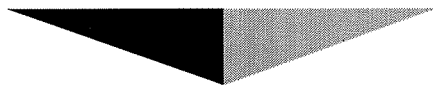
The outer rim of the Abuse in Later Life wheel defines violence, or the threat of violence that is evident in the relationship between the elderly victim and the abuser. The abuser uses threats to maintain power and control.

Each of the pie pieces represents different tactics that abusers may use in a relationship. Abusers may not necessarily use all of the tactics or they may use one tactic more often. Any combination of tactics can be used to maintain power and control over the elderly victim.

• **Section Two** •



**Investigative
Strategies**



Physical and Sexual Abuse Investigations

Investigating instances of elder abuse can be difficult. Often, the victim may be unwilling or unable to report that abuse is occurring. Witnesses may be unwilling to come forward out of fear of reprisal or out of a belief that the abuse is “a family matter.” Physical evidence may not exist and a lapse in time may have resulted in a loss of corroborating evidence. Factors such as these make recognizing the signs of elder abuse crucial to a successful investigation and prosecution.

Elder abuse investigations are also made difficult because it is often difficult to differentiate between actual physical injuries and the natural process of aging. Many cases of elder abuse fall into a gray area where abuse and neglect are less clear because of physiologic and psychological changes that occur during old age. Also, deaths (especially those occurring in healthcare facilities) may not be evaluated in detail because it is routinely concluded that death was the result of old age and health-related issues. As a result, autopsies are less frequently performed on older adults.

Indicators of abuse are actual signs or symptoms that suggest that abuse has occurred or is likely to occur. They may be physical or behavioral. Physical indicators include injuries or conditions, weapons, or signs of restraint. Behavioral indicators include the conduct of, or the interactions between, the victim and the suspect.

Signs of Physical Abuse in the Victim

- Inadequately explained bruises, cuts or burns.
- Bruises in the shape of articles such as belts, buckles, electrical cords or shoe/heel prints.
- Burns from cigarettes, lighters, appliances or hot water (immersion burns).
- Dehydration or malnutrition without an illness-related cause.
- Overly medicated or overly sedated.
- Lack of cleanliness or grooming.
- Fear of speaking for oneself, particularly in the presence of the caregiver.
- Allegations of abuse made by the victim.
- Indications of confinement or restraint such as rope or ligature marks on the wrists, legs or torso.
- History of similar injuries or numerous or suspicious hospitalizations.

Indicators of Abuse: The Suspect

Those who are suspected of elder abuse, neglect, or financial exploitation will attempt to deceive law enforcement and others into believing that they are not responsible for the physical or financial harm that has occurred. Often, their stories will change and the investigating officer should accurately record what the suspect tells him or her.

What suspects tell the 911 operator may be different than what they tell EMS. What they tell EMS may be different than what they tell the nursing staff at the hospital. What they tell the nursing staff may be different than what they tell the police or adult protective services. Any statements made by suspects may become valuable evidence if offered against them at trial.

Whenever possible, suspect statements should be formally documented in accordance with agency policy through written statements, audio and video recordings. Even a seemingly unimportant fact, if noted, may be shown to be significant at some later point in time as additional facts and evidence are discovered.

It is also important to note whether the suspect seems emotionally detached from the victim. If the suspect is the victim's child, do they refer to their parent by their first name instead of mom or dad? Is the suspect overly concerned about the cost of the ambulance transport to the hospital? Are they unaware of the types of medications that the victim is prescribed or when they were last filled?

Compare the suspect-caregiver's living quarters to that of the victim and note whether the caregiver is living in cleaner or more sanitary conditions than the victim. Note how the suspect appears physically. Are they dressed appropriately for the interior temperature and is their clothing clean? If the victim is suffering from any physical injuries check the suspect for injuries as well.

Be aware of the justifications and excuses that abusers use [page 20]. If officers accepts everything that suspects tell them at face value then victim safety is not addressed and victims may not reach out for help again. Furthermore, a message will be sent to abusers that they can do whatever they want to older victims with no consequences.

A complete background investigation of the suspect should be conducted. It should be determined whether or not the suspect has: a prior arrest history; history of domestic violence; history of patient abuse or caregiver neglect; license or certification in the medical field; or history of financial problems, alcoholism, or drug abuse.

WARNING!!

BE CAREFUL TO AVOID STEREOTYPES. DO NOT LET YOUR INVESTIGATION SUFFER BECAUSE YOU FEEL THAT THE SUSPECTED ABUSER CANNOT OR WILL NOT BE PROSECUTED BECAUSE OF THEIR OWN PERCEIVED LIMITATIONS (AGE, MENTAL OR PHYSICAL DEFICIENCY). CONDUCT YOUR INVESTIGATION AS YOU WOULD ANY OTHER INVESTIGATION INVOLVING SERIOUS INJURY OR DEATH.

Responding to an Incident of Elder Abuse

Law enforcement's response to an allegation of elder abuse should be handled in the same manner as any other call for service, demanding appropriate procedures and precautions to minimize the threat of injury to police officers, victims, and citizens on the scene. As with any other offense, the officer should:

1. **Identify victims and respond to their immediate medical needs.** EMS should always be requested, as their observations may be crucial to a later prosecution. Statements made by the victim to others, such as EMTs, for the purpose of medical diagnosis or treatment may be admissible at trial should the victim be unable to testify because of death, disability, or lack of cooperation. Also, EMTs and medical personnel often have conversations with the suspect-caregiver while at the scene. Such statements may later be used against the suspect to prove abuse.
2. **Protect the crime scene.** If evidence of abuse is observed, officers should secure the scene and seek a search warrant in order to locate and recover any weapons used, bloodied or soiled clothing, evidence of restraint such as ropes or electrical cords, or medications.
3. **Identify any and all potential witnesses.** Anyone with direct or indirect knowledge about the incident or any history of abuse should be identified and interviewed. Neighbors, physicians, EMT's, adult protective service workers, volunteers from Meals on Wheels, or anyone who may have had regular contact with the victim or suspect may provide valuable information that might otherwise go undetected.
4. **Gather all relevant evidence.** Photographs must be taken of all injuries. Photographs of the interior and exterior of the residence or crime scene should be taken. Officers should note that some bruises or injuries become more defined, or do not present themselves at all, until days after the original assault. Therefore, officers should take additional photographs of the victim's injuries within several days of the assault to show progression and/or development. If a foreign object was used to cause the elder's injury, the object should be photographed and seized.
5. **Conduct a sufficient preliminary investigation to verify or disprove the allegation.**
6. **Contact the Bureau of Elderly Adult Services** and coordinate your investigation with the protective worker. APS workers have the authority to demand immediate access to medical and financial records without the delay of a subpoena. Also, BEAS may have been involved with the victim or their family at some point. Their records may prove invaluable to establish a pattern of improper care. Also, suspects will speak to APS workers when they will not speak to police officers and suspects will often tell APS workers a completely different version of events from that given to police or medical providers. If there exists insufficient evidence to prove a case of criminal abuse or neglect, APS can still work with the victim to provide services once the criminal investigation has concluded.
7. **Obtain medical waiver** from victim or someone with the authority to grant the law enforcement officer access to the victim's current and past medical records (Durable Power of Attorney or Guardian).

Elder Neglect Investigations

Neglect occurs when those who have assumed responsibility for providing care to frail older people fail to do so. Consequently, neglect usually involves very old victims with cognitive and functional impairments and little social support who rely on others for assistance. Neglect may be active, where the perpetrator is willfully or intentionally neglecting the elder, possibly out of anger or financial gain. Neglect may also be passive, where the perpetrator recklessly fails to provide proper care either because they lack the knowledge about how to provide adequate care or they are unable to cope with the stresses of caregiving.

Victims of neglect typically go undetected until the caregiver brings the victim to a health facility or requests medical assistance at the home. Once detected, the victim often presents as malnourished, reeking of body odor or urine and feces, feverish and uncommunicative. Many older victims of neglect have been non-ambulatory for quite some time, often sitting or lying in one position without proper cushioning or repositioning by the caregiver.

Pressure Wounds or “Bed Sores”

“Bed sores” (also called pressure wounds or decubitus ulcers) develop on the elder’s back, sacrum, shoulders, elbows, heels or areas on the victim’s body that have been in contact with an object (chair, mattress, etc.) for such an extended period of time that bloodflow to that area of the body has been compromised. The skin begins to break down and the area may become infected possibly resulting in blood infection, serious injury, or death.

Evidence of elder neglect consists of physical, behavioral, environmental and testimonial factors. Officers encountering potential incidence of elder neglect should ask the following questions:

1. What is the victim telling me?
2. What is the caregiver telling me?
3. What is the scene / physical evidence telling me?
4. What are the witnesses telling me?

Indicators of Neglect: Victim and the Environment

- Neglected bedsores accompanied by a foul odor.
- Untreated injuries or medical problems.
- Poor hygiene.
- Hunger, malnutrition, or dehydration.
- Sunken eyes or cheeks.
- Absence of necessities in the home, including food, water, or heat.
- Absence of prescribed medications.
- Lack of clean bedding or clothing.
- Unsanitary or unsafe living conditions.
- Absence of needed dentures, eyeglasses, hearing aids, walkers, wheelchairs, braces, or commodes.

Responding to An Incident of Elder Neglect

Physical evidence is an important component of every criminal prosecution but can become especially significant when the crime is committed against an elderly person. Physical evidence may be used to document injury, corroborate victim/witness statements, link a suspect to a crime, or to prove that a crime did, in fact, occur. The significance of physical evidence is enhanced in crimes against the elderly because the victim may be unwilling or unable to testify at trial. Where the allegation of abuse is neglect resulting in serious bodily injury, it is likely that the victim has already died or will die shortly after the crime is discovered.

Cases of elder neglect are fact-specific. There is no fact that is unimportant or irrelevant. Every aspect of the lives of the victim and the suspect-caregiver must be examined. As such, elder neglect investigations are often lengthy and labor intensive. Physical evidence must be properly collected, preserved, and analyzed. Interviews must be conducted of anyone who had any knowledge of the relationship between the victim and the caregiver. Medical and financial records must be subpoenaed and reviewed. No stone can be left unturned.

When an officer encounters a suspected victim of elder neglect, the officer should follow the same protocols outlined on page 36 (*Responding to an Incident of Elder Abuse*). The officer should immediately scan the scene for possible environmental indicators of neglect.

Indicators of Neglect include:

- Odor of urine or feces in the room where the victim was found.
- Odor or rotting flesh (from the open bed sore on the victim).
- Air fresheners, incense, or candles burning to mask odors.
- Stains on the mattress, chair, or linen that the victim was lying on when discovered.
- Lack of heat.
- General lack of cleanliness of the residence.
- Lack of food or medicine in the residence.
- Presence of alcohol or illicit drugs.
- Presence of animals or pets. (Note whether the pets appear to be healthy or clean. Check the litter box for cleanliness. Is there sufficient food and medicine for the pets but not the elder?)

Photographs

Officers should photograph the crime scene with great attention to detail. Officers should identify and document any alterations to the scene following discovery of the offense. Detailed measurements should be obtained that would assist in the re-creation of the scene at a later date.

The date, time and location of each photograph must be documented at the time the photographs are taken. If using a digital camera, promptly transfer the photos to a compact disc, a DVD, or other acceptable storage device. Photographic evidence may include, but is certainly not limited to:

- Photographs of the victim. Close-up shots depicting specific injuries should be accompanied by mid-range and full-body shots for identification of the person depicted and the specific locations of the injuries. If at all possible, photographs should be taken of any wounds prior to treatment.
- Photographs of the suspect. Prosecutors may present photos of the accused showing lack of injuries in order to counter claims that the accused was injured by the victim. Photographs of the accused may also be used to compare and contrast the cleanliness of the caregiver to the cleanliness of the victim or the scene.
- Photographs of the crime scene. These should include overall scene shots as well as specific items and locations within the scene. Crime scene photographs can establish living conditions, evidence of a struggle, absence or presence of required medical equipment, unsafe conditions or proximity to other areas important to the establishment of probable cause or guilt. Photographs of the suspect's personal effects in the residence will help establish the degree to which the suspect is involved with the victim should the suspect attempt to later claim that they are not the victim's "caregiver".

Identifying and Collecting Evidence

Once an incidence of suspected elder neglect has been identified and the victim treated or removed, the scene must be secured and a search warrant obtained. Officers should not rely on the caregiver's consent to search the residence. Special attention should be paid to the area where the victim spent most of his or her time. If the victim was non-ambulatory, he or she will likely have spent most, or all of his or her time in the same chair or bed. The victim may also have been found lying on the floor or in the bathtub.

If the victim suffered from an open wound (pressure ulcer), fluid from the ulcer will likely have leaked into the victim's clothing, adult diaper, chair cushion, mattress, or carpeting. If such evidence is detected, the item containing the fluid should be photographed and properly collected and preserved. A horrible stench of decomposed flesh will typically accompany such evidence and officers should note whether they observe any such odors. Bank statements, bills, store receipts, and any other documentation present that may detail the income and expenditures of the caregiver should be seized as well. Make sure that these items are specifically mentioned in the application for the search warrant.

If a pet is present, note the health and appearance of the pet. Note whether the pet appears healthy or malnourished. Note the cleanliness of the food and water bowls, litter box, cages, or fish tanks. Often, the caregiver may neglect the elder but appropriately care for a pet. If a pet is present, also look for evidence such as veterinary bills or medication specifically for the pet.

Elder Self-Neglect

Self-neglect is the result of a person's inability or refusal to perform essential self-care tasks including eating, bathing, or securing food, clothing, shelter, or medical care. Self-neglect may be associated with mental or physical impairments, illness, depression, alcoholism, drug dependency, or hopelessness. Although self-neglect is found among all segments of the population, the problem is the greatest among the elderly.

While incidents of self-neglect must be reported under New Hampshire's mandatory reporting statute, it is not a crime. However, law enforcement agencies are likely to receive reports of suspected self-neglect from neighbors, friends, or other persons who are concerned about an older person's health and well-being. If the neglect reaches life-threatening levels, officers may be called to perform an involuntary removal of the elder under New Hampshire's mental health codes. Officers may also be called if the self-neglecting senior's home or apartment is creating a health or safety hazard. Therefore, officers should be prepared to respond appropriately to reports of self-neglect.

Most self-neglecting seniors are low-income women who live alone. Many have been found to be depressed and confused and many have a tendency to wander. Self-neglect can have a devastating effect on the elderly person. Officers may be able to improve the elder's standard of living by making appropriate referrals to relatives, social service agencies, and community support networks.

Indicators of Self-Neglect

- Unsanitary or unhealthy living conditions.
- Hunger, malnutrition, or dehydration.
- Absence of necessities in the home including water, food, or heat.
- Absence of prescribed medication.
- Absence of needed dentures, eyeglasses, hearing aids, walkers, wheelchairs, braces, or commodes.
- Elder seems detached or shows signs of hopelessness.
- Elder shows signs of poor hygiene.
- Evidence of hoarding (animals, newspapers, food containers, etc.).
- Elder shows signs of mental or physical illness.

Responding to an Incident of Self-Neglect

Incidents of self-neglect represent the majority of cases that are reported to the Bureau of Elderly and Adult Services. Such cases are difficult to investigate because a careful balance between protecting the elder from harm and respecting the elder's right to self-determination is difficult to attain.

- Request emergency medical services if the elder is physically injured or ill.
- Contact BEAS and request that an adult protective services worker respond to the scene with you.
- Identify and contact relatives, friends, clergy, neighbors, or anyone else who is familiar with the elder.
- Contact the local health code official if appropriate.
- If the elder is intoxicated or under the influence of drugs, he or she should be taken into protective custody pursuant to RSA 172-B:3.
- If the elder appears to be suffering from a mental illness that threatens his or her safety or the safety of others, or the elder lacks the capacity to care for his or her own welfare and there is a serious likelihood of death, serious bodily injury or serious debilitation the elder may be taken into custody pursuant to RSA 135-C:27 for an emergency evaluation.
- If a Coordinated Community Response Team exists in your jurisdiction, refer the matter to it for review.

Responding officers should request EMS to respond and treat the elder. The officer should also immediately contact the Bureau of Elderly and Adult Services for assistance.

Bureau of Elderly and Adult Services
1-800-949-0470

Bureau of
Elderly & Adult Services



Financial Exploitation Investigations

Upon receiving a complaint of possible elder financial exploitation, it is important that officers do not prejudge whether the case is civil or criminal in nature. At the onset of your investigation, a situation that clearly seems like a civil matter may actually be criminal.

Financial abuse poses special problems for a variety of reasons. Proving cases often involves demonstrating that a victim did not understand what was happening at an earlier point in time. For example, a severely incapacitated person may have signed a power of attorney granting someone authority to withdraw funds from his or her bank. If the victim did not understand what he or she was signing, the document is not valid and the unauthorized withdrawal could constitute theft.

Warning Signs of Financial Exploitation

Most family members provide vital assistance to elders. However, for this very reason, it makes the elder particularly vulnerable to exploitation. Most cases reported indicate that financial exploitation occurs more often by adult children, grandchildren or other relatives, professional or hired caregivers, or close friends or others in positions of trust rather than by strangers. Some of the indicators of financial exploitation most commonly perpetrated by people known to the elder include:

Deliberately mismanaging income or misusing assets (using power of attorney or guardianship for purposes beyond those for which it was originally executed).	Obtaining money or property by undue influence, misrepresentation, or fraud.
Signing checks or documents without the elder's consent to gain control over assets.	Unusual banking activity by the elderly victim. Sudden large withdrawals that are not consistent with past financial history.
Charging excessive fees for rent or caregiver services.	Use of ATMs when the elder has no history of using them or cannot walk or even get to an ATM.
Theft of money or property.	Elder has unpaid bills such as house payment, medical, taxes, rent, or utilities.
A recent Will or Deed Transfer when the elder seems incapable of writing or understanding such things.	Title to home signed over in exchange for "life-long care."
Recent acquaintance or "new best friend" expressing affection for an elder with assets.	

One obstacle to proving financial abuse is that suspects often have possession of the evidence or documents needed to prove the exploitation such as canceled checks, bank statements, or wills. Victims are often unable to testify to elements of the crime or cannot recall complicated or lengthy series of events or transactions.

Despite these difficulties, many cases of elder exploitation are successfully prosecuted. To increase the likelihood of successful prosecution, officers should do the following:

- Determine the relationship between the victim and suspect. Is the suspect a family member? Is he or she in a position of trust such as a caregiver or power of attorney? Does he or she live with the victim?
- Determine the extent of the victim's estate. It may include real property, bank accounts, certificates of deposit, stocks, home furnishings, collectibles, antiques, personal belongings or vehicles.
- Find out who owns the victim's home, whose name is on the deed, who pays the rent, and who pays the taxes.
- Determine whether the victim is literate.
- Find out whose names are on the bank accounts, investment accounts, and stocks.
- Find out who pays the bills.
- Find out how the older person's pension, social security, or other income checks are received and deposited in the bank.
- Determine what documents signed by the victim have placed the estate in the suspect's control. These may include powers of attorney, bank signature cards, vehicle titles, or deeds to property.
- Get copies of whatever documents were signed.
- Collect evidence from other agencies to include reports from APS.
- Determine the victim's mental condition. Is the victim mentally capable of testifying? This information may be obtained from the victim's physician, a mental health worker, or an APS worker.
- If the victim is incapable or if his or her capacity is questionable, contact family members, friends, or service providers to obtain mental health evaluations and histories. These should include information about the length of time that the victim has had diminished capacity in order to determine if he or she was able to give consent at the time it was given.
- If questionable purchases have been made, find out the value of the purchases, by and for whom they were made, the value of the purchases in relation to the suspect's income, and whether there has been a history of gift-giving.
- Determine if the victim's estate is still at risk of theft, misappropriation, or embezzlement. If so, secure the estate as soon as possible.
- Report the exploitation to the Bureau of Elderly and Adult Services.

Bureau of Elderly and Adult Services
1-800-949-0470

Crimes Associated with Financial Exploitation

RSA 637:3 Theft by Unauthorized Taking or Transfer: Accused obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

- Perpetrator withdraws money from the elder's bank account and uses the money for his or her own purpose and benefit.
- Perpetrator uses a power of attorney such that the elder's money is used for something other than the elder's benefit.

RSA 637:4 Theft by Deception: Accused obtains or exercises control over property of another by deception and with a purpose to deprive him thereof.

- Victim hires a contractor who agrees to perform work (paint, reshingle, etc.), takes the deposit, and fails to do the work.
- Door-to-door paving solicitations where salesman claims to have leftover asphalt from a nearby job and offers to repair the elder's driveway for a small amount (typically \$200-\$400). Once the work is completed, paver demands thousands of dollars more and claims that the elder must have misunderstood the agreement.

RSA 637:5 Theft by Extortion: Accused obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof. Extortion occurs when the accused:

- Threatens to cause harm in the future to the elder or to any other person or to property at any time. *"I will (break your leg, kill your cat, withhold your medication) if you don't sign this deed over to me."*
- Subjects the threatened elder or any other person to physical confinement or restraint. *"I'll leave you here in your bed if you don't give me \$100.00."*
- Threatens to engage in any conduct constituting a crime.
- Threatens to accuse any person of a crime or expose him to hatred, contempt, or ridicule. *"I'll tell everyone that you ...if you don't give me your pain medication."*
- Threatens to reveal any information sought to be concealed by the threatened elder. *"I'll tell your friends and family that you are an alcoholic if you don't sign your car over to me."*
- Threatens to do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

RSA 638:1 Forgery: If, with a purpose to defraud anyone, or with knowledge that he is facilitating a fraud to be perpetrated by anyone, the accused:

- Makes, completes, executes, authenticates, issues, transfers, publishes, or otherwise utters any writing so that it purports to be the act of another, or purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original exists.
 - **Accused signs elder's name on a deed, power of attorney document, check, stock, bond, bank withdrawal slip, or anything else that represents a pecuniary interest.**

RSA 638: 2 Fraudulent Handling of Recordable Writings: Accused, with a purpose to defraud or injure anyone, falsifies, destroys, removes, or conceals any will, deed, mortgage, security instrument, or other writing for which the law provides public recording.

- **Daughter or elder purposely destroys the elder's will just prior to his death after she discovers that the elder intentionally left her out of the will.**

RSA 638:4 Fraudulent Use of a Credit Card: Accused uses the elder's credit card for the purpose of obtaining property or services with the knowledge that the card is stolen, revoked, or canceled or the perpetrator's use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.

- **Caregiver finds the elder's credit or debit card and uses it to purchase items for himself or herself without the elder's authorization.**

RSA 638:26 Identity Theft. Accused uses the personal information of the elder (name, bank account number, or any other personal identifying information) in order to pose as that person.

- **Perpetrator uses the elder's social security number to obtain credit cards.**
- **Perpetrator uses a credit card or ATM card belonging to the elderly victim and signs the victim's name without the elder's authorization.**

RSA 358-A Consumer Protection Act. Protects elderly consumers from unfair or deceptive business acts or practices.

- **Perpetrator is hired to perform a service and fails to perform as agreed (home improvement, paving, etc.).**
- **Perpetrator engages in deceptive business practices by misleading the consumer.**

It's not always civil! Don't dismiss a possible criminal complaint because it appears to be civil in nature. Take the time to ask questions and apply the law.

Power of Attorney

A Power of Attorney (POA) is an instrument by which one person (“Principal”) delegates authority to make decisions such as medical care, end of life decisions, or financial management to another person (“Agent”). POA forms can be downloaded over the internet or purchased at office supply stores. They can be completed and signed by anyone. An attorney is not required to draft the POA and there is no court or any other oversight over the POAs.

POAs have often been referred to as “licenses to steal.” This is because the person who receives the authority has unfettered access to the principal’s finances. The agent can open and close bank accounts, cash in life insurance policies, sell property, and do anything that the principal could have done with the money or property.

Law enforcement officers must understand that a POA is not a license to steal. Although the agent has the legal access to the principal’s money, the agent has a lawful fiduciary duty to use the money for the principal’s benefit. Therefore, when presented with an alleged theft by someone acting under the authority of a POA, officers should not immediately dismiss the case as civil.

When presented with a suspected misuse of a power of attorney, officers should do, or consider the following:

- Obtain and examine a copy of the POA document. What does the document actually authorize the agent to do? What are its limitations? When does it become effective? Who has the authority to act? Does it authorize gifts or loans to the person with the decision-making authority? When was it created?
- A person who grants a POA to another person must have the mental capacity to understand the nature and consequences of their actions at the time the POA is given. If the elderly victim was incapacitated at the time the POA was created, then it is likely not valid.
- While most guardians, conservators, and those who hold power of attorney over another person’s finances carefully and properly execute their responsibilities, some are abusers.
- These relationships are not licenses to steal.
- All POAs terminate at the death of the person who granted the power.
- The existence of these instruments does not make the activity merely civil.
- Officers should conduct an investigation to determine if criminal financial exploitation has occurred. Officers should check for prior complaints or investigations involving either the victim or suspect in other jurisdictions.
- An elder law attorney, accountant, or the Attorney General’s Elder Abuse and Financial Exploitation Unit may be able to review the documents and help law enforcement understand what can and cannot be done.
- Family members, county attorney offices, and the Office of the Attorney General have the authority to petition the courts to determine the validity of a POA, terminate the POA, or force the holder of the POA to provide a financial accounting of how the victim’s money was spent.
- Officers should also remember that Adult Protective Services must be notified. Often, the APS social worker will have had extensive experience investigating such cases and can be an invaluable resource to your investigation.

**It’s not always civil!
Misuse of an elder’s
 money or property
 pursuant to a Power
 of Attorney is a
 crime!**

Foreign Lotteries and Scams

Scam artists intentionally target the elderly for a variety of reasons: elders are trusting, they have accumulated a certain amount of wealth, and when victimized they rarely report the incident to the police out of fear or embarrassment.

Advance Fee Fraud

The perpetrators of advance fee fraud, known internationally as "4-1-9 fraud" (after the section of the Nigerian penal code which addresses these schemes), are often very creative and innovative. A large number of victims are enticed into believing they have been singled out from the masses to share in multi-million dollar windfall profits for no apparent reason.

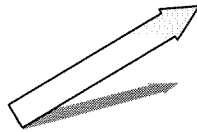


Contact your local Secret Service field office. Telephone numbers are available in the Field Office Directory or their website or may also be found on the inside cover of your local telephone directory. Any investigation regarding this type of fraud will be conducted on a case by case basis at the discretion of the local Secret Service office and U.S. Attorney's Office.

MANCHESTER 603-626-5631

Mail Fraud

Anything received or sent through the US mail.



Online filing allows you to send a complaint to the U.S. Postal Inspection Service if you are investigating a suspected case of mail fraud.

<https://postalinspectors.uspis.gov/forms/MailFraudComplaint.aspx>

Internet Crimes / Fraud

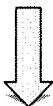
- Identity theft
- Phishing
- Canadian and other Foreign Lotteries
- Fraudulent requests for personal banking information
- Spam



File online complaint with Internet Crime Compliance Center. IC3 accepts online Internet crime complaints from either the person who believes they were defrauded or from a third party to the complainant. They can best process your complaint if they receive accurate and complete information from the complainant. Therefore, they request that the victim provide the following information when filing a complaint:

Name, mailing address, telephone number, name, address, telephone number, and Web address, if available, of the individual or organization you believe defrauded you. Specific details on how, why, and when you believe you were defrauded. Any other relevant information you believe is necessary to support your complaint.

<http://www.ic3.gov/default.aspx>

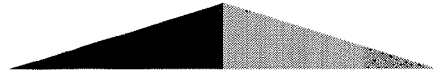


File complaint with the FTC. Complaints can help FTC detect patterns of wrongdoing and lead to investigations and prosecutions. The FTC enters all complaints it receives into Consumer Sentinel, a secure online database that is used by thousands of civil and criminal law enforcement authorities worldwide. The FTC does not resolve individual consumer complaints.

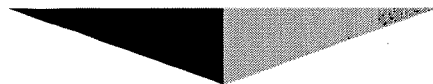
<https://www.ftccomplaintassistant.gov/>

*An estimated \$2.8 billion is stolen
from seniors each year.*

• **Section Three** •



Driving and the Elderly



Driving and the Elderly

Most older drivers are not problem drivers; they are merely people who need basic transportation. However, older drivers face a multitude of medical and non-medical barriers that may affect their safe operation of a motor vehicle. Some of the medical barriers that confront older drivers and impede their ability to operate a motor vehicle include:

- Alzheimer's disease and other forms of dementia.
- Field of vision loss, low vision, cataracts, and the onset of glaucoma.
- Arthritis, Parkinson's Disease, and stroke.
- Slowed reaction time due to advanced age or poor physical condition.

Additionally, the design of the vehicle itself may pose problems to the elderly driver. Seats may not sufficiently adjust to meet the needs or comfort of the driver. Switches or electronic controls may be difficult to locate or utilize. Doors may be heavy and cumbersome and the large size of the vehicle may make it increasingly difficult to operate.

Safe Operation Detection Cues

Law enforcement officers must analyze a steady flow of cues when conducting any traffic encounter. Older drivers may present a mix of operational mobility cues that law enforcement officers should recognize. Understanding these cues will assist the law enforcement officer in assessing the continued safe operational needs of the older drivers that they may encounter.

Older operators can have an abundance of medical and non-medical barriers to safely operating a motor vehicle. A dialogue with the person, as well as visual cues, will assist in determining if the person will require further evaluation of driving mobility. Does the driver know the current:

- time of day?
- day of the week?
- month of the year?
- year?

Does the driver recall where he or she is coming from? Does the driver know his or her destination? Is the driver far from his or her residence? Does the driver:

- have difficulty communicating?
- stumble over words?
- amble in short, unattached, meaningless sentences or explanations of his or her driving ability?

Safe Operation Detection Cues Cont'd.

- Is the driver's clothing disheveled, non-matching, or appropriate for the existing weather conditions? Does the driver exhibit poor personal hygiene? Does the driver launch into accusations of perceived victimization by criminals?
- Does the driver appear to be suffering from a form of dementia such as Alzheimer's disease?
- Is the driver wearing an identification bracelet or necklace indicating dementia that would affect safe driving mobility? Does the driver have large amounts of prescription medicines, prescribed by different doctors, visible in the motor vehicle?
- If the driver is out of the motor vehicle or exits the motor vehicle, does he or she have difficulty finding and removing his or her license, motor vehicle registration, insurance card from wallet/purse or producing other requested documents? Does the driver take a long period of time to walk a short distance, stumble/fall, shake excessively, or lack coordination when accomplishing simple tasks?

Law enforcement assistance in the form of intervention can include:

- Referral to a local assistance agency that can coach and counsel older citizens on safe operational mobility.
- Seeking information and assistance from family members of the older driver.
- Recommending public transportation systems.
- Coaching on restriction of certain types of motor vehicle operation (nighttime, inclement weather, interstate driving, etc.).
- Offering the assistance of the law enforcement community in safe operational mobility learning exercises.
- A reminder that self-assessment is an important step in maintaining safe operational mobility.

At times, law enforcement officers will encounter an older driver who requires the immediate removal from the roadway. Law enforcement officers should be familiar with state law and the agency's policies and procedures to guide their action in these situations.

Requesting a Reexamination

Renewal Driver License, Examinations Required. Saf-C 1007.01

- (a) Each applicant for a renewal driver license who is less than 75 years of age shall complete the visual acuity examination set forth in Saf-C 1004.01.
- (b) Each applicant for a renewal driver license who is less than 75 years of age shall be required to complete a road skills examination if the director has any reason to believe the applicant might be a hazard to public safety if licensed to drive, as a result of an apparent psychological or physical impairment.
- (c) Each applicant for a renewal driver license who is **75 years of age or older** shall complete the following in the order reflected:
 - (1) The visual acuity examination set forth in Saf-C 1004.01; and
 - (2) The road skills examination set forth in Saf-C 1006.01 or the motorcycle skills examination set forth in Saf-C 1006.04, if he/she has a motorcycle endorsement.

HIGH RISK DRIVERS

For the purposes of this section, "high risk driver" means a driver who, because of an apparent physical or psychological impairment or condition, needs a reexamination in order to determine his/her fitness to safely drive a motor vehicle so as not to endanger the public.

Request for a Reexamination. Saf-C 1009.02

A request for a driver to submit to a reexamination shall be in writing and forwarded to the office of the director, James. H. Hayes Building, 33 Hazen Drive, Concord, N.H. 03305. Each request pursuant to (a) above, shall be accepted from the following sources:

- (1) A law enforcement officer;
- (2) A health care provider, which shall include a school nurse, nursing home administrator or hospital administrator; or
- (3) A family member.

Each request shall include the following:

- (1) Name of requestor;
- (2) Address of requestor;
- (3) Relationship of requestor to the person identified to be in need of a reexamination;
- (4) Name, address, and date of birth of the person being requested to submit to a reexamination; and
- (5) Reason(s) for the request and any supporting documentation, if applicable.

High Risk Drivers, Continued

The director shall review the information submitted and determine that:

- (1) A reexamination is not warranted;
- (2) The person is a high risk driver and a reexamination shall be ordered to be conducted by a licensing examiner; or
- (3) The person's driver license shall be immediately suspended in accordance with the provisions of RSA 263:59.

A reexamination ordered by the director shall consist of the following:

- (1) The visual acuity examination.
- (2) The written examination.
- (3) The road skills examination.

In the event a reexamination is ordered by the director, the high risk driver shall be notified and given 3 opportunities to pass each required examination. Failure to appear 3 times for a scheduled reexamination or failure to successfully pass the reexamination after 3 attempts shall result in an immediate suspension of the person's driver license, in accordance with the provisions of RSA 263:59. Upon successfully passing the reexamination, the person shall continue to hold a valid driver license until the date of expiration.

Working with Families

Often, it is a concerned family member who reaches out to law enforcement for help when he or she believes that a loved one should no longer be driving. Not only does the family member fear for the safety of the driver and other motorists on the road, there also exists a legitimate fear that the loved one will become angry with them if it is discovered that he or she was the one to raise the issue.

Family members have options available to them. They may bring their concerns to the attention of the older driver's physician, priest or other religious leader, or anyone else who may be able to influence the older driver to stop driving.

Resources

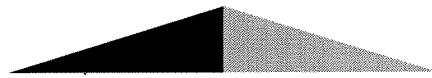
- Physician's Guide to Assessing and Counseling Older Drivers (American Medical Association) www.ama-assn.org.
- How to Understand and Influence Older Drivers www.nhtsa.dot.gov.
- Cues for Law Enforcement www.nhtsa.dot.gov.
- Older Driver's Fact Sheet (Alzheimer's Association) www.alz.org/safereturn.
- *At the Crossroads: A Guide to Alzheimer's Disease, Dementia and Driving* www.thehartford.com/alzheimers

“We Need to Talk”

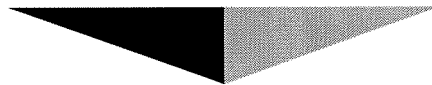
Is it time for your loved one to hang up the keys? Practical tips and advice on how to discuss this topic with loved ones.

www.aarp.org/home-garden/transportation/we_need_to_talk/

• **Section Four** •



Statutes





Mandatory Reporting of Abuse



Officers must be aware that New Hampshire law mandates the reporting of any suspected incident of abuse, neglect, self-neglect, or exploitation involving an incapacitated adult. New Hampshire's mandatory reporting law is found in Chapter 161 of the Revised Statutes Annotated (Public Safety and Welfare).

For the purposes of the mandatory reporting statute, certain terms carry a definition different from the same terms which are previously defined (adult, abuse). The following are definitions as they apply to mandatory reporting and protective services investigations:

Adult – Any person who is 18 years of age or older who is thought to manifest a degree of incapacity by reason of limited mental or physical function which may result in harm or hazard to himself or others or who is a person unable to manage his estate. RSA161-F:43, I.

Abuse – Any act or omission by a person which is not accidental and harms or threatens to harm an incapacitated adult's physical, mental, or emotional health or safety. The term "abuse" includes emotional abuse, physical abuse, and sexual abuse. RSA 161-F:43, III.

Neglect – An act of omission which results or could result in the deprivation of essential services necessary to maintain the minimum mental, emotional, or physical health and safety of an incapacitated adult. RSA161-F:43, IV.

Exploitation – The illegal use of an incapacitated adult's person or property for another person's profit or advantage, or the breach of a fiduciary relationship through the use of a person or a person's property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from an incapacitated adult through the use of undue influence, harassment, duress, deception, or fraud. RSA 161-F:43,V.

Serious Bodily Injury – Any harm to the body which causes or could cause severe, permanent or protracted loss of or impairment to health or of the function of any part of the body. RSA161-F:43,VI.

Self-Neglect - An act of omission by an incapacitated adult which results or could result in the deprivation of essential services necessary to maintain his minimum mental, emotional, or physical health and safety. RSA161-F:43,VII.

Incapacitated – The physical, mental, or emotional ability of a person is such that he is unable to manage personal, home, or financial affairs in his own best interests, or he is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver. RSA161-F:43,VII.

RSA 161-F:46. Reports of Adult Abuse; Investigations

Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, and law enforcement officials, suspecting or believing in good faith that any adult who is or who is suspected to be incapacitated has been subjected to abuse, neglect, self-neglect, or exploitation or is living in hazardous conditions shall report or cause a report to be made as follows:

- I. An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, if so requested, to the commissioner or his authorized representative. When oral reports are made after working hours of the department, or on weekends or holidays, such reports shall be made to the police department of the appropriate political subdivision, or to the sheriff of the county, in which the alleged abuse, neglect or exploitation occurred. Law enforcement officials receiving reports under this paragraph shall notify the commissioner within 72 hours of receipt of such reports.
- II. Within 72 hours following receipt by the commissioner or his authorized representative of such oral reports, an investigation shall be initiated by the commissioner or his authorized representative.
- III. Investigations shall not be made if the commissioner or his authorized representative determines that the report is frivolous or without a factual basis.

RSA 161-F:47. Immunity From Liability

Any person or agency, other than an alleged perpetrator, participating in good faith in the making of a report of an alleged incident of adult abuse, neglect or exploitation, providing information relative to such incident or following a reporting protocol developed jointly with the department, or who in good faith investigates the report, administers the registry, or who participates in a judicial or administrative proceeding resulting from that report, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any person or agency providing information in good faith, including materials requested by the department pursuant to RSA 161-F:56, shall have the same immunity with respect to participation in any investigation by the commissioner or his authorized representative or in any judicial proceeding resulting from such report.

RSA 161-F:48. Abrogation of Privileged Communication

The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, shall not apply to any proceedings instituted pursuant to this subdivision and shall not constitute grounds for failure to report as required by this subdivision.

RSA 161-F:45. Spiritual Treatment through Prayer

Nothing in this subdivision shall be construed to mean a person is abused, neglected, exploited, or in need of protective services for the sole reason that he relies on or is being furnished treatment by spiritual means alone through prayer in accordance with the tenets and practices of a church or religious denomination of which he is a member or adherent.

RSA 161-F:50. Penalty for Violation

Any person who knowingly fails to make any report required by RSA 161-F:46 shall be guilty of a misdemeanor.

RSA 161-F:57. Access to Files; Confidentiality

The files maintained by the Department of Health and Human Services which relate to investigations of alleged instances of abuse, neglect, or exploitation shall be disclosed only with the written consent of the victim, or his guardian or attorney, or if such disclosure is required by court or administrative order. Nothing shall be construed to prohibit the disclosure of information gathered pursuant to an investigation to a service provider as may be necessary to devise or implement a service plan, to a facility and the appropriate licensing authority or authorities for an incident occurring within a facility, as defined in RSA 151, to the extent necessary to protect the victim or other facility residents or to comply with state or federal law, to local law enforcement, the department of justice, or a county attorney, pursuant to RSA 161-F:51, II, or to any court in any proceeding where the welfare of the alleged victim or actions of a fiduciary acting on behalf of an alleged victim are at issue.

RSA 161-F:56. Access to Information

In the course of an investigation, the authorized DHHS representative may make any inquiries and obtain such information as is necessary to further such investigation. The department's authorized representative may review and photocopy any books, files, medical records, financial records, photographs or other records on any medium of an alleged victim of abuse, neglect, or exploitation. In the event any person or agency refuses to allow the department access to materials necessary to further its investigation, the probate court, upon a finding of probable cause, may order the person or agency to release its records to the department.

RSA 161-F:49. Registry

There is established a state registry at the department for the purpose of maintaining a record of information on each founded report of abuse, neglect, or exploitation toward an individual by a paid or volunteer caregiver, guardian, or agent acting under the authority of a power of attorney or any durable power of attorney. The registry is confidential and subject to rules on access established by the commissioner of the department under RSA 541-A. Unfounded reports are not maintained on the registry. The department also maintains statistical, non-identifying information on founded reports as the department determines is necessary to track and address trends.

RSA 639:3. Endangering Welfare of Child or Incompetent

I. A person is guilty of endangering the welfare of a child or incompetent if he knowingly endangers the welfare of a child under 18 years of age or of an incompetent person by purposely violating a duty of care, protection or support he owes to such child or incompetent, or by inducing such child or incompetent to engage in conduct that endangers his health or safety.

RSA 631:8. Criminal Neglect of Elderly, Disabled, or Impaired Adults

Any caregiver who purposely causes serious bodily injury to an elderly, disabled, or impaired adult by neglect shall be guilty of a class A felony.

Any caregiver who knowingly or recklessly causes serious bodily injury to an elderly, disabled, or impaired adult by neglect shall be guilty of a class B felony.

Nothing in this section shall be construed to alter or impair a person's right to self-determination or right to refuse medical treatment as described in RSA 151:21 and RSA 151:21-b.

Nothing in this section shall be construed to mean a person is abused, neglected, exploited, or in need of protective services for the sole reason that such person relies on or is being furnished treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a church or religious denomination of which such person is a member or an adherent.

Nothing in this section shall be construed to impose criminal liability on a person who has made a good faith effort to provide for the care of an elderly, disabled, or impaired adult, but through no fault of his or her own, has been unable to provide such care, or on a person who is carrying out the lawful request of an elderly or disabled adult who is competent to make his or her own decisions.

- "Adult" means any person who is 18 years of age or older.
- "Caregiver" means any person who has been entrusted with, or has assumed the responsibility voluntarily, by contract, or by order of the court, for frequent and regular care of or services to an elderly, disabled, or impaired adult, including subsistence, medical, custodial, personal or other care, on a temporary or permanent basis. A caregiver shall not include an uncompensated volunteer, unless such person has agreed to provide care and is aware that the person receiving the care is dependent upon the care provided.
- "Disabled adult" means an adult who has a diagnosed physical or mental impairment.
- "Elderly adult" means an individual who is 60 years of age or older.
- "Impaired adult" means any adult who suffers from an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, memory loss, or other cause, that causes an adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the adult's person or property or to be substantially impaired in the adult's ability to provide adequately for his or her own care and custody.

- "Neglect" means the failure or omission on the part of the caregiver to provide the care, supervision, and services which he or she has voluntarily, or by contract, or by order of the court agreed to provide and which are necessary to maintain the health of an elderly, disabled, or impaired adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would consider necessary for the well-being of an elderly, disabled, or impaired adult. "Neglect" may be repeated conduct or a single incident.
- "Person" means any natural person, corporation, trust, partnership, unincorporated association, or any other legal entity.
- "Serious bodily injury" means serious bodily injury as defined in RSA 625:11, VI.

RSA 651:6. Extended Term of Imprisonment

I. A convicted person may be sentenced to an extended term of imprisonment if, among other things:

- He has committed or attempted to commit any of the crimes defined in RSA 637 (theft) or RSA 638 (fraud) against a victim who is 65 years of age or older or who has a physical or mental disability and that in perpetrating the crime, the defendant intended to take advantage of the victim's age or a physical or mental condition that impaired the victim's ability to manage his or her property or financial resources or to protect his or her rights or interests;

RSA 161-F:53 Entry of Premises

If either an incapacitated adult reported or suspected of being abused, neglected, or exploited refuses, or caretaker or caregiver refuses, to allow the representative of the Department of Health and Human Services entrance to the premises for the purpose of investigating a report of abuse, neglect, or exploitation, the probate court, in the county where the adult is found, may order an authorized representative of the commissioner, a police officer, or other authorized individual to enter the premises in furtherance of such investigation.

Endangering welfare of child or incompetent person. RSA 639:3
Failure to report to Adult Protective Services. RSA 161-F:50.
Obstructing government administration. RSA 642:1.
Obstructing report of a crime or injury. RSA 642:10.
Falsifying Physical Evidence. RSA 641:6.
Reckless conduct. RSA 631:3.
Unsworn falsification. RSA 641:3.
Simple Assault. RSA 631:2-a.
Hindering apprehension or prosecution. RSA 642:3.
False report to law enforcement. RSA 641:4.
Tampering with a witnesses and Informants. RSA 641:5.
Failure to report injuries. RSA 631:6.
Stalking. RSA 633:3-a.
Kidnapping. RSA 633:1.
Criminal restraint. RSA 633:2.
False imprisonment. RSA 633:3.
Abuse of corpse. RSA 644:7.



DOMESTIC ABUSE LAWS



While elder abuse is defined as a crime under RSA 631:8, often it also constitutes domestic violence. Domestic violence is physical, sexual, verbal, emotional, or financial abuse between present or former intimate partners. It can involve threats, pushing, punching, slapping, choking, sexual assault, shouting, name-calling, harming or threatening to harm children or pets, and other violent or intimidating behaviors. Rarely a one-time occurrence, domestic violence usually escalates in frequency and severity over time. Abusers batter to control and dominate their partners. Violence is a behavioral choice for which the batterer must take responsibility. No language or other act is provocation or justification for violent behavior.

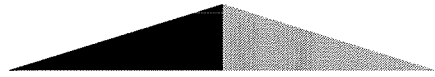
It is important for officers to recognize that abuse of the elderly is often committed by an offender known by and in an ongoing relationship with the victim. The tactics used in elder abuse cases by offenders are similar to the power and control dynamics used against younger victims.

In New Hampshire, abuse is defined as the commission or attempted commission of an assault, reckless conduct, sexual assault, criminal threatening, interference with freedom, destruction of property, unauthorized entry and harassment by a family or household member or current or former intimate partner where the conduct constitutes a credible threat to the victim's safety. The law is applicable to everyone regardless of age or disability.

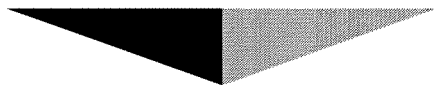
When domestic abuse occurs, the victim may petition the court for a protective order pursuant to RSA 173-B. For detailed information on dealing with domestic violence cases, officers should refer to the *NH Attorney General's Model Protocol for Police Response to Domestic Violence Cases*, which can be found at:

**[http://doj.nh.gov/criminal/victim-assistance/documents/
law-enforcement-protocol.pdf](http://doj.nh.gov/criminal/victim-assistance/documents/law-enforcement-protocol.pdf)**

• **Section Five** •



**Referrals
and
Resources**



Referrals and Resources

It is essential that law enforcement officers become familiar with the various public and private organizations that exist throughout the state and their regional and local communities that can serve as valuable resources to any investigation of suspected elder abuse, neglect, or financial exploitation investigation. It cannot be emphasized enough that collaboration among the range of professionals who serve older adults is the key to victim safety.

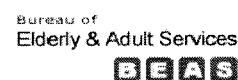
Because New Hampshire has a rich tradition of neighbors banding together in order to meet the needs of their communities, there exists a web of public and private community resources and services that weaves throughout the state. As such, including an exhaustive list of all existing resources in this manual is just not possible.

In any incident involving a crime against an older person, law enforcement officers should contact the Bureau of Elderly and Adult Services for assistance. ***BEAS helps take the social work out of police work.*** Adult Protective Social Workers with BEAS are aware of many local, regional, and state services that may be available to your victim and they should be considered an essential resource to you and your investigation. Such a resource is invaluable, particularly in cases of self-neglect where the older victim chooses to reside in an environment that may not be safe or healthy.

NH Department of Health and Human Services

The New Hampshire Department of Health and Human Services (DHHS) is the largest agency in New Hampshire state government and is responsible for the health, safety, and well-being of the citizens of New Hampshire. DHHS provides services for individuals, children, families, and seniors and administers such programs and services as mental health, developmental disability, substance abuse, and public health. This is accomplished through partnerships with families, community groups, private providers, other state and local government entities, and many citizens throughout the state who help make New Hampshire a special place in which to live.

DHHS Bureau of Elderly and Adult Services



The Adult Protection Program of the Bureau of Elderly and Adult Services (BEAS) carries out the legal requirements of the Protective Services to Adults Law. The purpose of the law, which is civil and not criminal, is to provide protection for incapacitated adults who are abused, neglected, exploited, or self-neglecting. There are over 40 Adult Protective Service Workers assigned to twelve different district offices throughout the state. Adult Protection Program activities include:

- The receipt and investigation of reports of alleged emotional abuse, physical abuse, sexual abuse, neglect, exploitation, self-neglect, and the referral to law enforcement agencies as necessary;
- The determination of the validity of the report and the need for protective services; and
- The provision of, or arrangement for, protective services when necessary and when accepted by the adult who has been determined to be in need.

If you suspect or believe in good faith that an elderly person who may be incapacitated is being abused, neglected, or exploited, or is self-neglecting, you must report it to BEAS.

Statewide Toll-Free Number 1-800-949-0470

District Offices

Berlin	1-800-972-6111 or (603) 752-7800	Littleton	1-800-552-8959 or (603) 444-6786
Claremont	1-800-982-1001 or (603) 542-9544	Manchester	1-800-852-7493 or (603) 668-2330
Concord	1-800-322-9191 or (603) 271-6201	Nashua	1-800-852-0632 or (603) 883-7726
Conway	1-800-552-4628 or (603) 447-3841	Portsmouth	1-800-821-0326 or (603) 334-4325
Keene	1-800-624-9700 or (603) 357-3510	Rochester	1-800-862-5300 or (603) 332-9120
Laconia	1-800-322-2121 or (603) 524-4485	Salem	1-800-852-7492 or (603) 893-9763

DHHS Bureau of Health Facilities Administration

The Bureau of Health Facilities Administration develops, establishes and enforces basic standards for the care and treatment of persons in hospitals and other health care facilities in which medical, nursing, or other remedial care is rendered. Licensing and inspecting New Hampshire health care establishments ensures the health and safety of the citizens served.

BHFA provides licensure and certification services for, among others, the following provider specialties:

Hospitals	Residential treatment and rehabilitation facilities	Ambulatory Surgical Care	Substance abuse hospitals	Psychiatric hospitals
Nursing Homes	Assisted Living Facility: Residential Care and Supported Residential Care	Home health and hospice agencies	Adult daycare	

When responding to a report of abuse, neglect, or other injury occurring within one of the categories of facilities licensed by the BHF, you should file a report with the BHF by mailing a copy of your police report to:

NH DHHS, Office of Operations Support
Bureau of Health Facilities Administration
129 Pleasant Street
Concord, NH 03301-3857
603-271-3021

***What is a Certified Facility? :** Any facility or home health agency certified under Title XVIII or XIX of the Social Security Act. If you are unsure whether a facility is certified, call 271-3021.

NH Office of the Long-Term Care Ombudsman

The Long-Term Care Ombudsman receives, services, investigates, and resolves complaints or problems concerning residents of long-term health care facilities. The program also provides advocacy services to long-term care facility residents and comments on existing and proposed legislation, regulations, and policies affecting long-term care residents. Education is provided to residents, family members, and facility staff concerning the legal rights of residents.

1-800-442-5640

NH Attorney General's Elder Abuse and Financial Exploitation Unit (EAU)



The EAU was created in 2006 to prosecute instances of elder abuse, neglect, and financial exploitation that occur outside of a healthcare facility, such as in a private home. The EAU is also charged with increasing awareness of elder abuse issues among law enforcement by conducting regional and statewide trainings. The EAU works closely with law enforcement agencies and the Bureau of Elderly and Adult Services to ensure that suspected incidents of elder abuse are effectively investigated and prosecuted. The EAU is available to offer investigative and prosecutorial support to local and state law enforcement agencies upon request.

603-271-3643

NH Attorney General's Medicaid / Healthcare Fraud Unit (MFU)



The Medicaid/Healthcare Fraud Unit identifies, investigates, and prosecutes criminal and civil fraud committed by healthcare providers who treat Medicaid recipients. It also prosecutes cases of patient abuse, neglect, and financial exploitation of residents in healthcare facilities. The Unit has a staff of attorneys, investigators, and financial analysts that investigate and prosecute cases statewide.

603-271-1246

NH Legal Assistance / Senior Advice Line

Provides direct representation, brief services, advice, and referrals to seniors experiencing consumer-related problems.

1-888-353-9944

ServiceLink Resource Centers



ServiceLink Resource centers provide free and confidential information, referrals, and assistance to older adults, persons with disabilities, and their families. ServiceLink may provide individuals and law enforcement officials with up-to-date information about resources available in the community in which the older adult lives. Such resources include:

Mental Health Services	Housing Options	Chore Services	Home Delivered Meals	Financial and Retirement planning
Available transportation	Caregiver and family Supports	Disability Services	Community Involvement Opportunities	Counseling about alternatives to nursing homes

ServiceLink can serve as a valuable resource to law enforcement officers who may be struggling to meet the needs of an older person who wishes to remain in their home but would benefit from a variety of services.

1-866-634-9412

www.servicelink.org

NH Board of Nursing

NH has a mandatory licensing law. No person may practice as a nurse or nursing assistant without a license. It is becoming increasingly commonplace for elders to hire private in-home care service agencies or private care providers to meet their daily needs. Often, licensed nursing assistants will advertise in local newspapers offering their services at a price much lower than that charged by a licensed agency. The lower cost is more attractive for seniors on a tight budget.

Any LNA or licensed caregiver working in a private residence will develop a close bond with their employer. Over time, this bond provides the caregiver with a certain degree of influence, persuasion, and power over the elder who may be completely dependent upon the caregiver. Some caregivers have offered to help manage the elder's finances by writing checks, paying bills, and making deposits for them. At some point, the elder may even grant the caregiver power of attorney over his or her finances.

Professional boundaries are crossed when the paid caregiver begins to accept gifts from the elder. Such gifts often include cash (under the guise of "loans"), vehicles, real estate (through wills or deed transfers). Nurses, licensed practical nurses and licensed nursing assistants are all bound by certain professional and ethical standards under RSA 326-B, the New Hampshire Nurse Practice Act.

The purpose of the NPA is to safeguard the life, health, and public welfare of the people of New Hampshire and protect the people of the state from the unauthorized, unqualified, and improper application of services by individuals in the practice of nursing. Such acts include:

- Drug diversion, theft, identity theft, fraudulent use of credit cards;
- Alcohol or drug use while providing services;
- Failure to maintain professional boundaries with clients or family members, use of excessive force upon or mistreatment or abuse of any client, engaging in sexual conduct with a client, touching a client in a sexual manner, requesting or offering sexual favors or language or behaviors suggestive of same, or threatening or violent behavior in the workplace.

The NH Board of Nursing maintains a website where anyone may conduct a search of licensed nurses or nursing assistants in order to determine whether the license is valid and whether any prior disciplinary action has been taken against the licensed individual by the Board. Officers should conduct such a search by visiting:

www.nh.gov/nursing/

Law enforcement agencies may also file a formal complaint about a nurse or nursing assistant with the Board of Nursing by downloading a complaint from the BON website and sending the complaint (along with a copy of the police report) to:

NH Board of Nursing
21 South Fruit St., Concord NH 03301 Fax: 603-271-2323
Attn: Executive Director

Disabilities Rights Center

The Disabilities Rights Center (DRC) is New Hampshire's designated protection and advocacy agency and is authorized by federal statute to "pursue legal, administrative and other appropriate remedies" on behalf of individuals with disabilities. The DRC is a statewide organization that is independent from state government or service providers.

The DRC provides information, referrals, advice, and legal representation and advocacy to individuals with disabilities on a wide range of disability-related problems. The DRC can help advocate for rights in the areas of: special education, housing, employment, and freedom from abuse or unwarranted restraint or seclusion.

Officers may wish to consider referring an older adult with disabilities to the DRC when presented with an elderly complainant or family member who is alleging a violation of his or her civil liberties.

NH Disabilities Rights Center
 18 Low Ave.
 Concord, NH 03301
 603-228-0432

New Hampshire Commission for Human Rights

The NH Commission for Human Rights is a state agency established for the purpose of eliminating discrimination in employment, public accommodations, and the sale or rental of commercial property because of age, sex, sexual orientation, race, creed, color, marital status, familial status, physical or mental disability, or national origin. The Commission has the power to receive and investigate complaints of illegal discrimination and to engage in research and education designed to promote good will and prevent discrimination.

Officers encountering situations similar to the following may wish to refer the elder to the NH Human Rights Commission for consideration:

- Housing discrimination where an elder suspects that they have been denied the fair opportunity to purchase, rent, or finance housing on the basis of age.
- Employment discrimination where an elder suspects that he or she has been unfairly denied the opportunity for employment on the basis of age.

A complaint of discrimination should be filed as soon as possible after the act of discrimination occurs. Complaints **MUST** be filed within 180 days of the last date of discrimination. Under certain circumstances, a charge may be filed up to 300 days from the date of alleged discrimination. Procedures for filing a complaint may be found at:

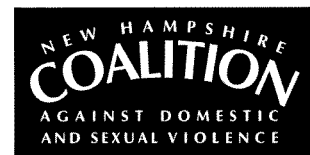
www.nh.gov/hrc/charge.html#who

Phone complaints:
603-271-2767

NH Coalition Against Domestic and Sexual Violence

The NHCADSV is an umbrella organization for a statewide network of 14 independent member programs committed to ending domestic and sexual violence and stalking. For domestic violence call 1-866-644-3574 and for sexual violence call 1-800-277-5570. Both numbers are toll-free and will connect the caller to the nearest crisis center. Crisis center services are free, confidential, and available to all victims 24 hours a day / 365 days a year and include:

- Emergency shelter and transportation
- Legal advocacy in obtaining restraining orders against abusers
- Hospital, police department, and court accompaniment
- Information about and help in obtaining public assistance



If you encounter someone that is experiencing or has experienced domestic or sexual violence or stalking, you can contact a member program for information, referrals, and support. An advocate may be able to assist law enforcement with finding a safe location for an elderly victim of abuse, sexual assault, or stalking to go and can also assist the elderly victim in creating a safety plan to protect himself or herself from further abuse.

Statewide Crisis Centers

<p><u>RESPONSE to Sexual & Domestic Violence</u> <u>c/o Coos County Family Health Services</u> 54 Willow Street Berlin, NH 03570 1-866-644-3574 (domestic violence)* 1-800-277-5570 (sexual assault) 603-752-5679 (Berlin office) 603-237-8746 (Colebrook office) 603-788-2562 (Lancaster office)</p>	<p><u>Sexual Harassment and Rape Prevention Program</u> <u>(SHARP)</u> UNH Verrette House 6 Garrison Avenue Durham, NH 03824 1-888-271-SAFE (7233) (crisis line) 603-862-SAFE (7233) (local crisis line) 603-862-3494 (office) www.unh.edu/sharpp</p>
<p><u>The Support Center at Burch House</u> P.O. Box 965 Littleton, NH 03561 1-800-774-0544 (crisis line) 603-444-0624 (Littleton office) www.tcapp.org/support_center.htm</p>	<p><u>A Safe Place</u> 6 Greenleaf Woods, #101 Portsmouth, NH 03801 1-800-854-3552 (toll-free crisis line) 603-330-0214 (Rochester crisis line) 603-890-6392 (Salem crisis line) 603-436-4619 (Portsmouth office) 603-436-7924 (Portsmouth crisis line) www.asafeplacenh.org</p>
<p><u>Starting Point: Services for Victims of Domestic and Sexual Violence</u> P.O. Box 1972 Conway, NH 03818 1-800-336-3795 (crisis line) 603-356-7993 (Conway office) 603-539-5506 (Ossipee Office) www.startingpointnh.org</p>	<p><u>Sexual Assault Support Services</u> 7 Junkins Avenue Portsmouth, NH 03801 1-888-747-7070 (crisis line) 603-436-4107 (Portsmouth Office) 603-332-0775 (Rochester Office) www.sassnh.org</p>
<p><u>Voices Against Violence</u> P.O. Box 53 Plymouth, NH 03264 603-536-1659 (crisis line) 603-536-3423 (office) www.homepage.fcgnetworks.net/voices</p>	<p><u>New Beginnings: A Woman's Crisis Center</u> P.O. Box 622 Laconia, NH 03247 1-866-644-3574 (domestic violence)* 1-800-277-5570 (sexual assault)* 603-528-6511 (office)</p>

Crisis Centers Continued:

<p><u>Turning Points Network</u> (formerly <u>Women's Supportive Services</u>) 11 School Street Claremont, NH 03743 1-800-639-3130 (crisis line) 603-543-0155 (Claremont crisis line) 603-542-8338 (Claremont office) 603-863-4053 (Newport office) www.free-to-soar.org</p>	<p><u>YWCA Crisis Service</u> 72 Concord St. Manchester, NH 03101 603-668-2299 (crisis line) 603-625-5785 (Manchester Office)</p>
<p><u>Women's Information Service (WISE)</u> 38 Bank Street Lebanon, NH 03766 1-866-348-WISE (toll-free crisis line) 603-448-5525 (local crisis line) 603-448-5922 (office) www.wisefoftheuppervalley.org</p>	<p><u>YWCA Derry office</u> 6 West Broadway #22 Derry, NH 03038 603-432-2687 www.ywcanh.org</p>
<p><u>New Beginnings: A Woman's Crisis Center</u> P.O. Box 622 Laconia, NH 03247 1-866-644-3574 (domestic violence)* 1-800-277-5570 (sexual assault)* 603-528-6511 (office) www.newbeginningsnh.org</p>	<p><u>Bridges: Domestic & Sexual Violence Support</u> P.O. Box 217 Nashua, NH 03061-0217 603-883-3044 (crisis line) 603-672-9833 (Milford office) 603-889-0858 (Nashua office) www.bridgesnh.org</p>
<p><u>Rape and Domestic Violence Crisis Center</u> P.O. Box 1344 Concord, NH 03302-1344 1-866-644-3574 (domestic violence)* 1-800-277-5570 (sexual assault)* 603-225-7376 (office)</p>	<p><u>Monadnock Center for Violence Prevention</u> 12 Court Street Keene, NH 03431-3402 603-352-3782 (crisis line) 1-888-511-mvcp(6287) (toll-free hotline) 603-352-3782 (Keene office) 603-532-6288 (Jaffrey office) 603-209-4015 (Peterborough office) www.mcvprevention.org</p>



Attorney General's Consumer Sourcebook



Each year, thousands of elders fall victim to one of the many varieties of fraudulent schemes or con games, losing anywhere from a few dollars to thousands of dollars. Con artists are skilled at preying on both their fears and their best instincts: they want to help someone in a jam, they do not want to get someone into trouble, and they want to be able to provide for their families.

Swindlers may offer a "great deal" that "won't be available tomorrow," or the investment opportunity that is "too good to pass up," or the chance to split a large sum of money they just found. Common frauds targeted towards the elderly include bogus investment opportunities, fraudulent home repair services, mail fraud and foreign lottery scams, and grandparent scams, just to name a few. Several specific deceptive business practices are covered elsewhere in this guide.

The Attorney General's *Consumer Sourcebook* contains some general information about the laws that apply to a variety of consumer transactions, some examples of how the law might apply to a situation, some points to keep in mind if an elder finds himself in similar circumstances and some ideas for where to turn for more help. The Sourcebook is not intended to give legal advice, but whenever possible the manual describes the laws and legal concepts that apply to the purchase of many goods and services in simple, direct terms.

Law enforcement officers may wish to consider referring elders to the *Consumer Sourcebook* in those instances where the issue that the elder is struggling with is related to a sale, purchase, or solicitation. The Sourcebook contains valuable information for consumers to include:

- Process to follow to place one's name on the DO NOT CALL list.
- State Lemon Law and automobile-related issues.
- Landlord-tenant matters.
- Warranties.
- Home heating fuel.
- Telemarketing.
- Mortgages and pay-day loans.
- What to do if contacted by a debt collector.

Copies of the Sourcebook may be downloaded at:

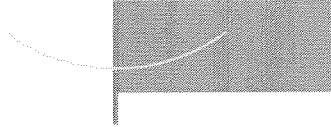
www.doj.nh.gov/consumer/sourcebook

Officers should also encourage seniors to call the Attorney General's Consumer Protection Bureau Hotline where they can speak to a consumer resource specialist weekdays between 9:00 a.m. and 3:00 p.m. regarding any consumer-related questions or concerns they may have:

1-888-468-4454



Securities and Investment Fraud



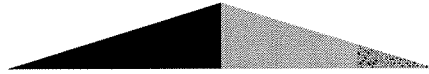
Often, elderly investors are solicited by scam artists or unscrupulous investment brokers to participate in investment opportunities that seem too good to be true. New Hampshire state securities regulators may bring enforcement actions to halt or remedy a wide variety of investment-related violations and may be able to obtain restitution for seniors who have found themselves victims of fraudulent investment schemes.

Law enforcement officers should not dismiss complaints of investment fraud as civil. Officers should take an initial report from the victim and contact the NH Bureau of Securities Regulation for further assistance and guidance.

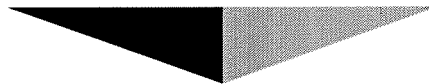
NH Bureau of Securities Regulation
Department of State
107 North Main Street #204
Concord, NH 03301
603-271-1463



• **Section Six** •



**Alert for Missing Persons
with Developmental Disabilities
and
Missing Senior Citizens**



Introduction

In 2009, the NH Department of Safety established an alert program for missing persons with a developmental disability and missing senior citizens. Similar to the AMBER Alert Program used in child-abduction cases, the missing seniors program is a collaborative effort between the investigating law enforcement agency, the NH State Police, designated media outlets, and the public to quickly locate seniors that have gone missing. The alert plan can only be activated by law enforcement and is intended for use only in those cases involving:

1. A person of any age that is missing, has a *verified* developmental disability, and whose disappearance poses a credible threat to the safety and health of the person, or;
2. A senior citizen (55 or older) who has a *verified* impaired mental condition and whose disappearance poses a credible threat to the safety and health of the person.

Definitions

For the purposes of the missing persons protocol the following definitions shall apply:

Developmental Disability

A disability that can be attributable to one's intellectual function, cerebral palsy, epilepsy, autism, learning disability or any physical or mental impairment that substantially limits one or more of the major life activities of an individual. In addition to the aforementioned conditions this definition may also include, but may not be limited to, persons who are deaf or blind or are afflicted with any other condition which could reasonably result in the belief of the investigating law enforcement agency that the subject could pose a danger to him/herself or be in danger if not located. The term would also apply to those people who are afflicted with a developmental disability which was the result of disease, brain injury, or other accidental cause at any age.

Impaired Mental Condition

A person will be considered to be afflicted with an impaired mental condition if he or she suffers from a diminished mental capacity to the extent that the person poses a danger to himself or herself or is unable to reasonably provide for his or her own safety and would be in danger if not located.

Verified

Although formal documentation regarding a person's developmental disability or impaired mental condition is preferred, the investigating law enforcement official may rely on the word of the reporting party if that party is in a position to have access to, or be familiar with, the missing person's developmental disability or impaired mental condition. If supporting documentation is not available at the time when the report is filed then every effort shall be made by the investigating law enforcement agency to obtain documentation as soon as possible.

Definitions Continued

Domicile

This term applies to people who at the time of their disappearance reside in the state of New Hampshire either on a full or part-time basis and were known to be in New Hampshire at the time of their disappearance. The term shall also apply to those people who are reported as missing while visiting or passing through the state of New Hampshire at the time of their disappearance.

This definition would not apply to a resident who was not in New Hampshire at the time of his or her disappearance. For example, a New Hampshire resident travels to Florida and while in Florida is reported missing. Simply because the person has residency in the state of New Hampshire would not automatically justify an alert activation in this state if the disappearance did not occur in NH. *If there is credible information to believe that a person fitting the criteria set forth in this protocol is en route back to NH, then those cases could be considered individually.*

Alert Activation Criteria

An alert for a missing senior citizen can only be sent to the designated media outlets by the NH State Police HQ Communications after it has been confirmed that a person meeting the following criteria is missing:

1. The person's whereabouts are unknown, and;
2. The person's domicile at the time he or she is reported missing is in the state of New Hampshire, and;
3. The person's age at the time he or she is first reported missing is *at least 55 years old and the person has a verified impaired mental condition*, and;
4. The person's disappearance *poses a credible threat to the safety and health of himself or herself* as determined by the law enforcement agency.

Alert Activation Procedures

Once the investigating law enforcement agency verifies that a person meeting the criteria set forth in this protocol is missing, the ranking on-duty law enforcement officer from that agency shall contact the NH State Police Headquarters Communications Center (271-3636) and provide the facts of the investigation to the dispatch supervisor.

Whenever possible, the investigating law enforcement agency shall send the most recent photo of the missing person to the NH State Police Communications Center via e-mail (comsuper@dos.nh.gov) or by facsimile (271-1153).

Alert Activation Procedures Cont'd:

The investigating law enforcement agency shall identify a specific agency point-of-contact within their agency and provide a telephone number for the public to utilize when providing case information or leads.

The call-taker at the NH State Police Communications Center shall document the information that he or she is provided from the investigating law enforcement agency utilizing a Missing Person Intake Report Form. The NH State Police shall confirm that the alert activation criteria have been satisfied prior to the information being disseminated to the designated media outlets.

NH State Police Communications personnel shall notify E-911 that a missing person alert may be forthcoming. The investigating law enforcement agency shall notify the NH State Police Communications Center of new or updated information.

The investigating law enforcement agency shall input the information regarding the missing person into the NCIC system immediately after the initial report has been filed. Upon its receipt, State Police Communications personnel shall review the SPOTS message for accuracy.

The investigating law enforcement agency shall generate a SPOTS message (BOLO/ATL). Considerations regarding the missing person's ability to obtain transportation will be given when deciding where to direct the SPOTS message. These same factors will be considered when deciding if alert broadcasts should be requested in other states.

The missing person alert should include, but may not be limited to, the following information:

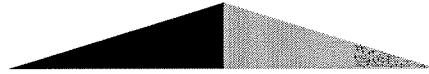
- Name and contact number of the investigating agency.
- Name and age of missing person.
- Missing person's last known location.
- Missing person's last known direction of travel.
- Missing person's last known clothing description.
- Missing person's vehicle information (if applicable).
- Missing person's medical status.

After the information contained within the alert has been verified, the alert information will be disseminated to the designated media outlets by a press release. Once received, the media outlets will review the alert information and make a determination as to whether an alert will be broadcast.

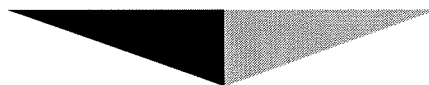
Alert Cancellation

It is the responsibility of the investigating law enforcement agency to notify the NH State Police Communications Center when the missing person has been located and to cancel the previously issued SPOTS (BOLO/ATL) and NCIC messages.

• **Section Seven** •



Appendices



AUTHORIZATION TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION

I hereby authorize **(leave blank and fill in later, or insert medical provider)** to disclose the following protected health information from the medical records of the patient listed below. I understand that information used or disclosed pursuant to this authorization could be subject to redisclosure by the recipient and, if so, may not be subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), or other federal or state laws protecting its confidentiality.

Patient name: **(insert)** Date of Birth: **(insert)**

Information shall be disclosed to any authorized representative of the: **(insert police department)**

Disclose the following information for treatment dates: _____ to the present:

Certified copies of **Complete Records**, including but not limited to: medical records; hospital records, including emergency room or clinics; mental health, psychological or psychiatric records; social work records; alcohol and drug records; laboratory reports; x-rays, CT scans, and/or MRI's; memoranda; notes; bills; correspondence, and any other documents you have in your possession which relate to **(insert patient name)**, d/o/b **(insert patient date of birth)**, his/her physical and/or psychiatric condition, and/or medical care or treatment at any time provided to **(insert patient name)** for the period from **(insert time period sought)** to the present, by any person or institution, and which is in your possession.

The above information is disclosed for legal purposes, and a photocopy of this authorization is as good as an original.

I also release from any restriction of professional confidences any and all physicians, surgeons, nurses, technicians, health care providers, psychologists, mental health providers, social workers, hospitals, clinics, and medical record librarians, authorizing them to discuss treatment of **(insert patient name)**, d/o/b **(insert patient dob)**, with any authorized representative of the **(insert name of PD)** Police Department or the New Hampshire Attorney General's Office.

I understand I may revoke this authorization at any time by requesting such of the above referenced hospital/physician practice in writing, subject to the exceptions to the right to revoke identified in HIPAA, including but not limited to situations where action has already been taken in reliance upon it, or during a contestability period under applicable law.

HIPAA DISCLOSURE—I understand that I have certain rights under HIPAA, and I intend for this authorization to satisfy the requirements of HIPAA and the rules and regulations relating to that act. In that regard, I certify that I consent to the release of my records to the **(insert name of PD)** Police Department, the Office of the Attorney General, and/or their duly authorized representatives, that the purpose of this request is for that office to prosecute a case, and that the release of the entire medical record is the minimum disclosure necessary to satisfy this request.

This authorization expires upon the conclusion of the prosecution of this matter.

Signature

Date

Printed Name

THE STATE OF NEW HAMPSHIRE

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

HILLSBOROUGH, SS

[#####] DISTRICT COURT

Sample

I, _____ (name) _____, being duly sworn, do hereby depose and say the following: I am a police officer with the _____ Police Department and have been so employed for 10 years. I have been assigned to the Detective Division for three years where my duties include the investigation of serious misdemeanors and felonies to include assault, child abuse, sexual assault, burglary and crimes against the elderly. I have received training through the NH Police Standards and Training Council and the Office of the New Hampshire Attorney General in the area of elder abuse, neglect and financial exploitation investigation.

1. On July 1, 2010 a 911 call was received by the _____ Police Department from David Smith* who resides at _____ with his 92-year old father H.S. David reported that his father was having difficulty breathing and requested an ambulance. David told dispatch that he also believed that his father had a bedsore on his back that he noticed for the first time while giving him a bath the day before.
2. Patrol Officer Alan Adams and emergency medical technicians responded to the Smith residence and found H.S. barely conscious on his bed. The house was filthy and had a strong odor of feces and rotten flesh throughout. The odor was particularly strong in the bedroom of H.S. Officer Adams observed several air fresheners in the hallway leading up to the bedroom of H.S.
3. H.S. was laying on his back and was covered with a blanket. Below his waist his skin was covered with dried feces and urine. A preliminary scan of his body found a large, cavernous open wound on his lower back that smelled of feces and rotten flesh. When the EMT's moved H.S. from the bed to the gurney, H.S. winced in pain.
4. When H.S. was removed from his bed, Officer Adams saw that the bed was heavily stained with what appeared to be feces. Officer Adams noted that there was no television, phone or radio in the room. There was no wheelchair or other devices to assist with walking.
5. During a conversation with Officer Adams, David Smith stated that he had been taking care of his father for 2 years. He said that his father has not been able to get out of bed for several months and stopped being able to communicate altogether 2 months ago. He said that he first noticed the bedsore on his father 3 days ago while changing his clothes. David Smith stated that his father had not been to the doctor in several years.
6. When asked about the odor in the house, David Smith said that he didn't smell anything unusual. He said that he was doing his best while caring for his father but his father is difficult to get along with.
7. EMT's would later report that the odor of rotten flesh and feces was so strong that they had to open a window in the ambulance to get fresh air.
8. Once H.S. arrived at the hospital, emergency room staff were overcome with the strong odor of rotten flesh and feces and could only spend several minutes each caring for H.S. Emergency room staff discovered that H.S. had multiple decubitus ulcers on his back, shoulders, elbows and heels. Several of them were infected and leaking bodily fluid. The largest ulcer measured 8 x 12 centimeters and had rotted down to the bone. The body of H.S. was covered in skin flakes, his fingernails and toenails were filthy and had not been trimmed in a long time.
9. Emily Jones, an adult protective services worker with the New Hampshire Department of Health and Human Services responded to the hospital after hospital staff reported the criminal neglect to her office. Jones obtained certain hospital records of H.S. and was able to share the information with Officer Adams.

* Fictitious name and incident

Search Warrant Affidavit Continued

10. Hospital reports indicated that the condition of H.S. was the direct result of neglect. Dr. Michael Perry, a wound care specialist, stated in his report that the ulcers, particularly the largest, developed over a period of weeks. This would be in direct contrast to the statement provided by David Smith where he stated that the wound appeared just three days ago.
11. A social worker report states that she spoke with David Smith on the phone in an attempt to gather a patient history on H.S. When the social worker asked Smith how long the ulcers had been on his father's body, Smith told her that he wasn't aware of any ulcers or bedsores on his father's body.
12. After reviewing reports submitted to the Detective Division, I contacted Assistant Attorney General Tracy Culberson who heads the New Hampshire Attorney General's Elder Abuse and Financial Exploitation Unit. AAG Culberson is an expert in elder neglect investigation and prosecution. He has prosecuted cases of elder neglect where caregivers have failed to provide the necessary care to others resulting in the development of decubitus ulcers that became infected and caused serious bodily injury or death. AAG Culberson teaches elder abuse and neglect recognition at the NH Police Standards and Training Council and is an instructor on elder abuse and neglect at the National Advocacy Center in Columbus, South Carolina.
13. AAG Culberson provided me with the following indicators of criminal neglect: presence of multiple or large untreated decubitus ulcers (bedsores); strong odor of rotten flesh and feces; inconsistent or contradictory statements by caregiver about the level of care provided; indicators of environmental restraint such as a lack of wheelchairs or phone near the victim; poor nutrition or poor hygiene of the victim; stained clothing or bed linen indicating that the victim had not been bathed or changed in a lengthy period of time.
14. H.S. remains at the Elliot Hospital in critical condition. His soiled clothing is currently in the possession of the hospital.
15. Based upon the foregoing, probable cause exists to believe that evidence of the crimes of Criminal Neglect, of an Elderly, Disabled, or Impaired Adult (631:8) and Endangering the Welfare of A Minor or Incompetent (639:3) may be found in the possession of David Smith at 112 Hilltop Drive, Goffstown NH, Such evidence may include, but is not limited to: Linen and mattress soiled with urine, feces, and other bodily fluids, trace evidence to include hair, fibers, and clothing, medications, correspondence concerning the care of H.S., phone bills, medical records, financial documents and bank records relating to funds received and dispersed on behalf of the care of H.S., air fresheners, veterinary records, utility records.

Officer



Statewide Resources

Elder Abuse and Adult Services in New Hampshire

NH Department of Health and Human Services, Bureau of Elderly and Adult Services

- Protective investigations conducted by adult protective service workers where the victim is elderly or incapacitated and is being subjected to abuse, neglect, self-neglect or financial exploitation.
- To make a report or request assistance with an investigation, call 1-800-949-0470.

NH Department of Justice, Office of the NH Attorney General

- Elder Abuse and Financial Exploitation Unit - Investigates and prosecutes instances of elder abuse, neglect and financial exploitation that occur within a private residence in the community. 603-271-0110.
- Medicaid Fraud Unit - Investigates and prosecutes fraud committed against the Medicaid program. Investigates and prosecutes instances of elder abuse, neglect and financial exploitation occurring within facilities that receive Medicaid funding. 603-271-1246.
- Consumer Protection and Antitrust Bureau—Protects consumers from unfair and deceptive business practices in New Hampshire (contractor fraud, home improvement scams, etc.).

ServiceLink

- A statewide network of resource centers with the common purpose of providing information and supportive referrals about statewide and local resources for older adults, adults living with disabilities, chronic illness and their families and caregivers.
- Call toll-free at 1-866-634-9412 or visit www.servicelink.org to find out more about the ServiceLink office in your community.

NH Coalition Against Domestic and Sexual Violence

- Provides services to survivors of sexual assault and domestic violence such as: emergency shelter and transportation; legal advocacy in obtaining restraining orders against abusers; hospital, police and court accompaniment and help in obtaining public assistance.
- For domestic violence related cases call 1-866-644-3574.
- For sexual assault related cases call 1-800-277-5570.

Fraud or Financial Exploitation

- Nigerian lotteries or advanced-fee fraud: Contact your local Secret Service office. 603-626-5631
- Paving scams or home improvement fraud: Contact the NH Attorney General's Consumer Protection and Anti-trust Bureau at 1-888-468-4454.
- Internet crimes: Identify theft; phishing; Canadian and other foreign lotteries; fraudulent requests for personal banking information; spam; e-mails purporting to be from the FBI, IRS or other government agency:
 1. File an on-line complaint with the Internet Crime Compliance Center (IC3) at www.ic3.gov.
 2. File an on-line complaint with the Federal Trade Commission (FTC). Complaints received help the FTC detect patterns of wrongdoing and lead to investigations and prosecutions. www.ftccomplaintassistant.gov

FIRST RESPONDER GUIDE TO ADULT SERVICES AND CRIMES AGAINST THE ELDERLY IN NEW HAMPSHIRE

Medical Calls: Always consider the possibility of elder abuse anytime an older person is present or lives at the residence. The first step in any elder abuse investigation is looking for signs of elder abuse. Remain open-minded, ask questions and avoid assumptions.

Physical Abuse: Identify victim and respond to their immediate medical needs. Protect the crime scene. Identify and interview any and all potential witnesses. Gather all relevant evidence and photograph injuries. Conduct a sufficient preliminary investigation to verify or disprove the allegation. If verified, conduct an evidence-based investigation and look for physical and corroborating evidence so that your case is not entirely dependent upon the victim's testimony. Contact the Bureau of Elderly and Adult Services and the local domestic violence crisis center.

Neglect: Follow protocol for responding to an incident of physical abuse. Note any odors of rotten flesh, urine or feces in the residence. Note physical condition of the elder to include cleanliness, malnutrition or dehydration. Identify the primary caregiver and obtain statement concerning the level of care provided to include food, clothing and hygiene. If sufficient indicators of neglect are present, secure the scene and obtain a search warrant. Refer to the NH Attorney General's *Field Guide and Resource Manual on Elder Abuse, Neglect, Self-Neglect and Financial Exploitation* for samples of a search warrant and a list of items to be seized. Contact the county attorney's office and the Office of the Attorney General if death occurs as a result of criminal neglect.

Self-Neglect: Identify elder and respond to any immediate medical needs. Contact the Bureau of Elderly and Adult Services and request that an adult protective service worker respond to the scene. Identify and contact relatives, friends, clergy, neighbors or anyone else who is familiar with the victim. If the elder is intoxicated or under the influence of drugs they should be taken into protective custody pursuant to RSA 172-B:3. If the elder appears to be suffering from a mental illness that threatens their safety or the safety of others, or the elder lacks the capacity to care for his/her own welfare and there is a serious likelihood of death, serious bodily injury or serious debilitation the elder may be taken into custody pursuant to RSA 135-C:27 for an emergency evaluation.

Financial Exploitation: Do not immediately dismiss claims of financial exploitation as civil if they involve a guardianship, power of attorney, or involve disputes with contractors. Investigate as you would any other crime of theft, forgery or fraud.