

Article

Criminalizing Abuse, Neglect, and Financial Exploitation of Older Adults

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Abstract: The criminalization of abuse, neglect, and financial exploitation of older adults did not begin until the late 1990s in the United States. During this time, a number of states enacted laws criminalizing certain abusive and exploitive behaviors committed against older adults and added punishment enhancements to existing laws if victims were over a certain age. These laws and policies, and the impetus for them, mirrored those enacted decades prior as part of the child welfare movement, with connections drawn between the vulnerability of younger and older victims. Despite passage of these various abuse and exploitation laws for older adults, significant challenges remain in the identification, investigation, and prosecution of crimes committed against this population. Further, the population of older adults has been rapidly expanding along with rates of victimization, elevating the importance of this escalating social problem. This paper identifies limitations in the prior research by describing the past, present, and likely future of U.S. law and policy intended to effectively respond to crimes against older adults and concludes with a research and policy agenda.

Keywords: older adults; victimization; elder abuse law; criminal law



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1. Introduction

Four groups have been identified as particularly vulnerable to criminal victimization: the young, the old, females, and those with mental disabilities (von Hentig 1948). While progress has been made, the response to crimes committed against vulnerable victims in the United States has been fragmented and heavily driven by welfare- and protection-oriented legislation, with considerably less attention from the criminal justice system.

The criminalization of abuse, neglect, and financial exploitation of older adults did not begin until the late 1990s in the United States. During this time, a number of states enacted laws criminalizing certain abusive and exploitive behaviors committed against older adults and added punishment enhancements to existing laws when victims were over a specified age. However, there remains substantial variation across states regarding whether or not they have age-specific legislation and if so, in the types of legislation and in the comprehensiveness of the state statutes.

The unsystematic nature of current legislation is notable because older adults comprise the fastest growing segment of the United States population—and will for the next several decades (outnumbering children under age 10 by 2034). According to the United States Census Bureau, in 2030, the number of Americans over the age of 65 will be greater than 71 million, which represents a projected 29% increase in 10 years. Americans are also experiencing unprecedented longevity, with those living beyond 100 steadily increasing. Further, the current generation of older adults is wealthier than preceding generations, controlling 70% of the nation's invested wealth (Brandon 2008) and nearly USD10 trillion in home equity wealth (Kaul and Zhu 2021). The actual and/or perceived wealth of older adults, combined with stereotypes that they are frail and defenseless, has contributed to the perception that older adults are vulnerable targets for a variety of abusive and exploitive behaviors, particularly those that may be financially motivated (Burns et al. 2017).

Given the fast-growing population of older adults and likely increases in rates of their victimization, there remains a significant lack of research and understanding on the laws and policies designed to respond and prevent criminal victimization. What follows is a description of the current scope of the problem of crimes committed against older adults, a brief review of the history, and the current status of the criminalization of offenses against older adults. The paper concludes with discussion of the likely future of age-specific legislation and an agenda for needed research and policy.

2. The Problem of Crimes Committed against Older Adults

Older adults are victims of many of the same crimes as younger adults. However, older adults are less likely to report victimization and the consequences of their victimization can be more severe and longer lasting (Burnett et al. 2017; Lachs et al. 1998). Research has documented that older adults may be less able to recoup financial losses and/or recover physically or emotionally from victimization (Rabiner et al. 2008; United States Office of Victims of Crime 2018; Ziminski and Rempusheski 2014). Older adults are also susceptible to crimes that younger adults typically do not experience. Abuse or neglect at the hands of caregivers, or financial exploitation perpetrated through a guardianship arrangement, for example. Regardless of the type of victimization, experiencing any form of abuse, neglect, or exploitation can accelerate the rate, and increase the risk of, physical illnesses and emotional suffering, increase the likelihood of hospitalizations, and triple the risk of premature death (Dong et al. 2009; Dong and Simon 2013; Lachs et al. 1998). Brancale (2017) found that financial exploitation led many older adults to experience regular and chronic chest pains that were due to stress and anxiety associated with their victimization. Victimization can also negatively impact older adults' sense of self-efficacy (Brancale and Blomberg 2022). For example, Blomberg et al. (2016, p. 53) interviewed residents of a large Florida retirement community and found that older adults who experienced financial exploitation regularly reported feeling "lost", "hopeless", and "helpless" after being victimized. In the same study, one participant reported feeling "dread and anxiety... each time [he] opened [his] credit card bills... not knowing what charges [he] might find".

According to the United States Office of Victims of Crime (2018), in 2015 the rate of violent victimization of people aged 65 and older reported to law enforcement was 5.2 per 1000 people. There was a large disparity in the rate of violent victimizations between older men and older women—with 3.2 per 1000 older adult men likely to experience violent victimization compared with 6.7 per 1000 older adult women. Importantly, only 45% of violent victimizations committed against persons aged 65 and older were reported to the police and 51% involved victims who did not know their perpetrator. Older adults may be especially susceptible to neglect and other forms of physical and financial abuse, which can include fraud, identity theft, scams, or mismanagement of funds perpetrated in a trusting relationship, or by strangers, through direct or indirect exchanges.

The best available estimates indicate that approximately 10% of adults aged 60 and older experienced some form of abuse (e.g., financial, physical, sexual, emotional, neglect) in the past year in the United States (Acierno et al. 2010). In a meta-analysis of studies exploring prevalence rates of older adult abuse worldwide, Yon et al. (2017) found that the annual pooled prevalence rate for abuse of older adults was 15.7%. The authors acknowledge that there was substantial variation in prevalence rates across nations and prevalence studies were limited from low- and middle-income countries. Despite this variation, however, Yon et al. (2017) and the United Nations (2022) concluded that, globally, approximately 1 in 6 older adults living in the community experienced some form of abuse each year (which equates to about 141 million people; rates are higher for older adults who live in institutions). Acierno et al. (2010) reported that the most common types of abuse experienced by older adults were financial abuse, neglect, emotional abuse, physical abuse, and sexual abuse, in that order.

Older adults are targeted more frequently than younger adults for some forms of financial fraud. In particular, scams involving telemarketing, charitable donation, real

estate, automobile/home repair, lottery/sweepstakes, government impersonation, robo-calls, and healthcare (AARP 1996; Waterman 2023). There has been a steady increase in the prevalence of financial exploitation of older adults over the past several decades (Acierno et al. 2010; Morgan and Mason 2014; United States Office of Victims of Crime 2021; Yon et al. 2017) and it is among the most common forms of self-reported abuse by this population (Burnett et al. 2017). In a meta-analysis, Burnes et al. (2017) found approximately 5.4% of cognitively sound community-dwelling older adults fall victim annually. However, this is likely an underestimate because many cases are not reported (Burnett et al. 2017; Jackson and Hafemeister 2010).

Although the prevalence of various types of abuse have yet to be fully determined, rates are likely continuing to rise along with the population of older adults (Patel et al. 2021). Definitions of older adult abuse (which include neglect and physical, financial, sexual, and emotional abuse) vary widely. The World Health Organization (2021) defines older adult abuse as “a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person”. The definition provided by the American Prosecutors Research Institute (2003) contains slightly more description and detail: “in general, an incident [of older adult abuse] involves at least one of the following elements: an intentional act or attempt to inflict physical or psychological harm, non-consensual sexual contact, illegal or inappropriate use or taking of an individual’s assets or property, or failure to provide for satisfying a person’s basic life needs (i.e., food, care, housing, medical attention, or other necessities)”. There is also variation across federal and state governments regarding the age at which a person would be considered an “older adult”. Qualifying ages included in United States’ statutes of older adult abuse, neglect, or financial exploitation typically range from 60–70. Most states, however, use ages 60 or 65 to categorize a person as an “older adult”. These align with various biological, legal, and social factors. For example, the World Health Organization’s definition of an older adult is age 60, the age at which biological changes to the body begin appearing most prominently; the earliest age for social security eligibility is age 62; and the qualifying age for Medicare is 65.

In addition to the lack of standard definitions and ages across statutes, it is important to note that there are also significant limitations in official statistics and self-reported survey data, which means that current prevalence estimates likely substantially underestimate true occurrence rates. The lack of clear prevalence estimates may also be driven, in large part, by variations in settings and methods between studies. First, older adults with certain physical or cognitive disabilities and those who are living in institutional settings are often not included in prevalence surveys or estimates (importantly, these groups may be especially vulnerable). Second, studies have shown that crimes against older adults are vastly underreported to authorities. It has been estimated that for every 24 cases of older adult abuse, only one is reported to adult protective services or law enforcement (Lachs and Berman 2011). Third, the available estimates are quite dated. The proportion of the United States population that are over age 60 has greatly increased, likely leading to an increase in the number of older adults experiencing some form of victimization or abuse.

The abuse and victimization of older adults has been slowly gaining the attention of policymakers, practitioners, and the public (American Prosecutors Research Institute 2003). However, the attention and any resulting formal responses or reactions have been fragmented and inconsistent. For example, there have been periods where much progress was made and others where virtually no changes have occurred. Nonetheless, this attention, albeit sporadic, has resulted in federal funding initiatives, the development of government agencies and organizations designed to provide services to older adults and regulate caregivers and care facilities (e.g., National Institute of Aging, Departments of Elder Affairs, Adult Protective Services), and the incremental criminalization of some forms of abuse and exploitive behavior.

3. Legislation Targeting Crimes against Older Adults

One of the earliest forms of protection for vulnerable people—including older adults—in the United States was guardianship. Guardianship laws have been in existence since colonial American times and are an extension of the government's power under the *parens patriae* doctrine to act as a protector of citizens who are unable to protect or care for themselves (Johns 2014). In guardianship proceedings, courts appoint "substitute parents" for "wards" who have no one to care for them or their property (Guthrie et al. 1996). Guardians then act as fiduciaries charged with protecting the interests of those whom they have been given authority over. Courts began to address concerns about due process protections for individuals subject to guardianship in the 1960s. However, it was not until 1987 when the Associated Press published an article documenting the ways in which older adults were stripped of their rights, oftentimes with little or no evidence, and were then abused or exploited (Bayles and McCartney 1987). The article received considerable public and policymaker attention, leading to a number of states enacting stricter requirements for appointing guardians and oversight of the guardianship process.

Despite the longstanding existence of guardianship, specific concerns about the abuse of older adults did not receive organized national attention in the United States until the 1950s and 1960s, and it was not until the 1970s that meaningful legislation addressing the problem began to be enacted. Moreover, it was not until the 1990s when many states began adopting laws that specifically criminalized abuse, neglect, and financial exploitation of this population. Most recently, federal legislation has trended towards allocating funding to support state-level programs, education, and research, whereas state-level legislation has begun to move towards the enactment of new criminal statutes that seek to hold perpetrators criminally responsible—either through specific statutes that make victimizing a person over a certain age a criminal offense or sentencing enhancements added to existing laws. The various strategies and responses designed to protect older adults, from welfare and guardianship laws to the criminalization of certain behaviors, have closely mirrored historical efforts in the United States to protect another vulnerable population—children.

Like children, older adults can be especially vulnerable and face serious risks associated with abuse, neglect, and victimization. A number of factors have been found to be correlated with various forms of both child and older adult mistreatment. In fact, medical professionals and healthcare workers have considered the mistreatment of older adults to be analogous to child mistreatment in both cause and consequence (Kohn 2012). Children and older adults can both experience social isolation and dependence, may not be able to accurately comprehend people's actions or motivations, have limited decision-making capabilities, and may be unable to physically protect themselves, which can all lead to multiple forms of victimization. Children and older adults may also be hesitant or unwilling to report their abuser because they are family members or caregivers; or because they are fearful of retaliation. Further, the challenges and barriers associated with prevention and response to crimes against children and older adults are quite similar (e.g., concerns about cognition, competency, and the ability to effectively communicate).

Although various physical, cognitive, and social factors between children and older adults may similarly influence their vulnerability to abuse and victimization, there are important differences to consider. Legally, for example, children are unable to provide consent and unlike children, older adults may have access to financial resources and feel a sense of responsibility for their abuser. However, despite the documented similarities, the United States has a much more established and comprehensive system for addressing child abuse and neglect than it has for addressing the mistreatment of older adults (Kohn 2012).

3.1. Efforts to Protect America's Children from Victimization

Strategies to protect children have evolved along with changing beliefs and attitudes about the role of government in the private lives of citizens, specifically regarding whether and how much government entities should intervene to ensure the protection and care of children who were in need (Kohn 2003). Early government interventions were focused more

on meeting the needs of children than concerns about the negative impacts of abuse/neglect on children's development or the prosecution of those who abused or neglected them. As public awareness about the prevalence of child abuse and the damage it caused grew, child protection received greater systematic attention from federal and state governments as they began to set their own policy priorities and agendas.

Early movements toward establishing child protection policies began in the 1700s in the United States. Under the emerging Progressive ideology of the 1800s, religious, charitable, and private agencies led efforts to place orphans and children whose parents could not care for them in almshouses or orphan asylums, or indenture them to families where they had to work for their food and shelter (Blomberg and Lucken 2010; Hacsı 1996). This outwardly benevolent strategy for caring for children was termed "the child-saving movement" (Platt 1977).

As private child protection societies continued to expand across the United States at the turn of the twentieth century, there were simultaneous calls to shift the responsibilities of child welfare away from private societies to government agencies. These calls were driven by the public's belief that the services provided by private societies were often careless and of a poor quality (Kohn 2003). As a result, federal, state, and local governments began to take a more active role in the development and delivery of a myriad of social services. In 1875, New York became the first state to pass legislation aimed at protecting children from abuse (Davidson 1999) and the world's first juvenile court was established in Cook County, Illinois in 1899 (Rothman 1980; Schlossman 1977). Within two decades every state had established its own juvenile court, and these were intended to be "benevolent surrogate[s] not only for nonfunctioning parents but also for ineffective schools" (Blomberg and Lucken 2010, p. 90). The widely popular juvenile court was modeled after the medical field and its goal was to protect children through the identification of the root causes of children's social problems and provide associated cures (Blomberg and Lucken 2010). Although the reformers who created the juvenile court were at first concerned with delinquent children, juvenile courts had wide jurisdiction. Very quickly after their inception, juvenile courts began to intervene in cases of child abuse, neglect, and in instances where children were deemed to need protection (Blomberg and Lucken 2010).

During the 1960s, there was again growing public concern about child abuse and the government's ability to appropriately respond. This time, physicians played a key role. In 1962, pediatrician Henry Kempe and his colleagues published the widely read article, *The Battered Child Syndrome* (Kempe et al. 1962). As the medical field became interested in child abuse, so too did the media, and by extension, the public. A handful of states that did not have mandatory child abuse reporting laws quickly enacted statutes and began making public the number of child abuse reports that were filed each year. However, it was not until 1974 that the United States Congress enacted the first major piece of federal legislation addressing child abuse and neglect, The Child Abuse Prevention and Treatment Act (CAPTA; Davidson 1999). CAPTA authorized federal funds to improve states' responses to physical abuse, neglect, and sexual abuse. To receive federal funding for child abuse prevention programs and treatment, states were required to expand their foster care programs and maintain mandatory child abuse reporting procedures and investigation protocols (Myers 2008). In 1983, CAPTA was amended to designate April as National Child Abuse Prevention Month (Child Welfare n.d.). Continuing today, during the month of April, government, private service providers, and communities work together to bring awareness to child abuse and prevention.

Although there was not a singular process or cohesive national plan to address child maltreatment, the way in which child protection systems came into being suggests a "bottom-up" approach (Kohn 2003). This approach included increasing awareness, changing public attitudes, involvement from the medical community and media, and incremental government engagement through the development of public agencies, funding allocation, and legislation (Blomberg and Lucken 2010; Kohn 2003; Myers 2008). The major child

welfare developments and strategies implemented to accomplish them have been very similar to those taken to protect older adults decades later.

3.2. Efforts to Protect America's Older Adults from Victimization

Much like the early child welfare laws of the 1800s, protection of older adults was initially seen as an issue to be addressed solely by providing social services, not as a concern of the criminal justice system (Kohn 2012). For example, Meals on Wheels, one of the earliest social services dedicated to taking care of older adults, began operating in Philadelphia in 1954 with the mission of providing meals to older adults who were unable to care for themselves. When the issue of older adult abuse and neglect first drew government attention in the 1950s, it was primarily in the context of a push for protective services for those adults who had physical and mental disabilities. This involved cases of older adults that were not specifically targeted but rather, may have been incidentally and only occasionally included in these protections.

Following this initial development, throughout the 1960s and 1970s, through the efforts of the American Public Welfare Association and the social work field, federal legislation was passed that funded state-level initiatives to provide services for older adults (Kohn 2012). State and federal governments then began by taking more targeted approaches by focusing services on older adults who lived in the community and later regulating institutions that provided services. In July of 1965—the same year that Medicare was created—President Lyndon B. Johnson signed the Older Americans Act (OAA) into law. The OAA was the first federal-level initiative aimed solely at providing services for older adults, as opposed to wrapping services into other pieces of legislation. Several programs were created because of the OAA, including the Administration on Aging, the National Family Caregiver Support Program, and the National Eldercare Locator Service. Grants to tribal organizations to support in-home or community-based services, transportation, legal aid, home care, and daycare services were also allocated by the OAA (Kohn 2012).

This fragmented and limited response may be because, historically, there have not been as many people mobilized and willing to advocate or take on issues facing older adults (Kohn 2003). These issues traditionally competed with many other concerns for citizens' attention and limited government funding. However, protecting older adults has an advantage that the child saving movement did not; everyone is aging, therefore, improving conditions for older adults can be seen as being in the direct interest of everyone (Kohn 2003). Founded in 1958, AARP is the largest nonprofit, nonpartisan organization dedicated to empowering Americans aged 50 and older. While its specific focus and missions have evolved and grown over time, the organization brings awareness to many issues older adults may experience, advocates/lobbies in the interests of older adults, and produces a multitude of educational materials for its nearly 38 million person membership. Importantly, bringing attention to financial exploitation and fraud of older adults has been a focus of AARP since its inception. In 1963, AARP's founder spoke before the U.S. Senate Special Committee on Aging to discuss common scams that were targeting older adults (e.g., those involving Medicare; AARP n.d.). In 1973, AARP launched a Crime and Safety Program to help older Americans avoid becoming victims of burglary, assault, and consumer fraud. By the 1980s, AARP had established Criminal Justice Services, a community service program that was focused on letting older adults live independently through various safety and crime prevention activities. This program brought together representatives from the International Association of Chiefs of Police, the National Sheriff's Association, local law enforcement leaders, community leaders, and AARP volunteers to focus on preventing criminal victimization, domestic abuse and mistreatment, and mail and telephone fraud against older adults.

As another example of attempts to organize and advocate for older adults, World Elder Abuse Awareness Day (occurring on 15 June each year) was launched in 2006 by the International Network for the Prevention of Elder Abuse and the World Health Organization. This day provides organized opportunities for communities around the

world to promote a better understanding of abuse and neglect of older persons. More recently, in the United States, the entire month of June has been designated as “Elder Abuse Awareness Month”.

While these advocacy initiatives did not directly result in the passage of laws that criminalize abuse behaviors towards older adults, they did bring awareness and relevance to issues facing older adults and likely contributed to the passage of federal legislation. In March 2010, President Obama signed the Elder Justice Act into law, with the primary intention of creating a new role for the federal government in coordinating responses for abuse and neglect of older adults and to authorize federal funding for abuse prevention services. Despite the federal government’s involvement in allocating resources and providing leadership on prosecution through the U.S. Department of Justice, the federal legislative response was—and has remained—limited. For example, the federal government has not made older adult abuse a federal crime as it has for certain instances of domestic violence or child abuse (Kohn 2012).

As documented, responses to older adult abuse, neglect, and financial exploitation have been fragmented and primarily focused on increasing awareness and providing education. These strategies represent a “bottom-up” approach with little targeted involvement from state or federal governments, similar to the early child welfare movement (Kohn 2003). However, this began to change during the late 1990s and continuing through the first decade of the 2000s as many states updated their penal codes to criminalize specific behaviors committed against older adults or adding punishment enhancements to existing laws if victims were over a specified age. In the section that follows, the current state-level responses to crimes committed against older adults are presented.

4. Current and Future Responses to Crimes Committed against Older Adults

The shift in criminal justice attention has been attributable to the emergence of organized advocacy efforts surrounding the mistreatment of older adults. Prosecutors have played a large role in raising awareness at the federal, state, and local levels. Specifically, they have argued that the acts constituting older adult abuse can and should be classified as standalone crimes and prosecuted as such, similar to domestic violence and child abuse (American Prosecutors Research Institute 2003). Individuals who victimize older adults can be prosecuted for a range of traditional crimes (i.e., battery, assault, manslaughter, rape, fraud) that do not distinguish among victims based on age. Over the past several decades, however, state-level criminal justice system resources have been allocated and legislatures have enacted statutes aimed at facilitating the prosecution of a variety of crimes committed specifically against older adults (Kohn 2012). For example, the new crime would apply when the victim was above a certain age or had a qualifying disability or dependency. Many statutes also included increases to statutory penalties when the victim was over a certain age, or if they suffered great bodily injury or death. It is important to note that there is considerable variation in the comprehensiveness, definitions, ages, and behaviors included in current state-level statutes.

In a growing number of cases, however, states are targeting older adult victimization by criminalizing behavior that previously would not have been illegal; for example, the failure of a caregiver to meet the needs of an older adult or vulnerable person, when the victim may not see the behavior as criminal, or may have consented. As part of the response to financial exploitation of older adults, states have adopted statutory provisions that make “undue influence” a crime (Quinn 2000). By criminalizing undue influence, states can permit the prosecution of persons without requiring the prosecution to establish theft, coercion, fraud, or other more traditional grounds for finding that an agreement was not freely entered, such as showing a diminished cognitive capacity (Hall et al. 2005).

Despite progress, not all states have statutes that differentiate victims based on chronological age. Some criminalize the abuse of “vulnerable”, “infirm”, “disabled”, or “dependent” adults (which may or may not apply to older adults). Nevertheless, many of these states have conditions that make advanced age or age-related disabilities a type of

vulnerability that would, in turn, support an enhanced criminal charge. However, the statutes do not specify the age at which a person would be considered “advanced” nor the specific qualifications for an “age-related disability”. In these instances, there is likely variation across prosecutors and juries in decisions about qualifying ages and disabilities. Sixteen states do not have specific statutes criminalizing abuse or financial exploitation of older adults. These states rely on traditional abuse and financial exploitation statutes and do not have age restrictions, requirements, or enhancements.

Table 1 provides information about specific statutes criminalizing abuse or financial exploitation committed against older adults. As shown, 29 states and Washington, D.C. have specific laws criminalizing abuse and/or financial exploitation committed against older adults. The qualifying ages for these statutes range from 60–70. Most states have the same qualifying age for both their abuse and financial exploitation statutes. Rhode Island, however, is the exception with a minimum age of 60 for criminal abuse and 65 for criminal financial exploitation. California’s statute is notable because although the minimum age for the statute to apply is 65, the state includes sentencing enhancements if the victim is over the age of 70.

Table 1. Older adult age-specific statutes for criminal abuse and financial exploitation.

State	Age, Vulnerability, Disability Conditions	Abuse Statute	Financial Exploitation Statute
States with Age-Specific Criminal Abuse and/or Criminal Financial Exploitation Statutes			
Alabama	60	Yes	Yes
California	65	Yes	Yes
Colorado	70	Yes	Yes
Connecticut	60	Yes	No
Delaware	62	Yes	Yes
Georgia	65	Yes	Yes
Illinois	60	Yes	Yes
Indiana	60	Yes	Yes
Iowa	60	No	Yes
Kansas	60	No	Yes
Louisiana	60	Yes	Yes
Massachusetts	60	Yes	No
Minnesota	65	Yes	No
Missouri	60	Yes	Yes
Montana	65	Yes	Yes
Nebraska	65	Yes	Yes
Nevada	60	Yes	Yes
New Hampshire	60	Yes	Yes
North Dakota	65	Yes	Yes
Ohio	65	Yes	Yes
Oklahoma	62	Yes	Yes
Oregon	65	Yes	Yes

Table 1. Cont.

State	Age, Vulnerability, Disability Conditions	Abuse Statute	Financial Exploitation Statute
States with Age-Specific Criminal Abuse and/or Criminal Financial Exploitation Statutes			
Rhode Island	60 (abuse), 65 (FE)	Yes	Yes
South Dakota	65	Yes	Yes
Tennessee	70	No	Yes
Texas	65	Yes	Yes
Utah	65	Yes	Yes
Washington, D.C.	65	Yes	Yes
West Virginia	65	Yes	Yes
States with Conditional Age-Specific Abuse and/or Criminal Financial Exploitation Statutes			
Florida	60, if suffering from infirmities of aging	Conditional	Conditional
New York	60, if vulnerable	Conditional	Conditional
North Carolina	60, if unable to care for self (abuse), 65 (FE)	Conditional	Yes
Washington	60, if frail	Conditional	No
Wisconsin	60, if at risk	Conditional	Conditional

Source: (United States Department of Justice, Elder Justice Initiative n.d.) Note: States without age-specific criminal abuse or criminal financial exploitation statutes are Alaska, Arizona, Arkansas, Hawaii, Idaho, Kentucky, Maine, Maryland, Michigan, Mississippi, New Jersey, New Mexico, South Carolina, Vermont, and Virginia.

In addition to variation across states in the age thresholds used, there is also variation in definitions of abuse and financial exploitation. Most abuse statutes use similar language in that a person commits abuse if they “intentionally” cause, inflict, or intend to inflict “physical injury” to an older adult. Some states include additional details and qualifiers. For example, in addition to physical abuse, Alabama’s statute includes the infliction of “emotional abuse” and Florida’s statute specifies “physical or psychological injury”. North Carolina’s statute is only applicable to caregivers of older adults in “domestic settings” and includes the failure to “provide medical or hygienic care”.

Most financial exploitation statutes involve the “intentional misuse” of an older adult’s funds or property for personal benefit. Like the abuse statutes, states vary in the qualifying details, usually related to how an individual gains control or use of the older adult’s finances or property. For example, Alabama’s statute specifies the use of “deception, intimidation, undue influence, force, or threat of force. . . or breach of fiduciary duty” to obtain control over finances or property. Florida’s statute specifies that an individual commits financial exploitation if they misuse an older adult’s funds or property to “benefit someone other than the elderly person”.

An additional five states have statutes for criminal abuse or financial exploitation of older adults; however, they are conditioned on vulnerability, dependence, risk, or frailty. These states are Florida, New York, North Carolina, Washington, and Wisconsin. Florida’s criminal abuse and financial exploitation of older adult statutes state that a person can be charged under the statute if they victimize a person who is at least 60 years old *and* “is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired” (Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults, Florida Statute XLVI, 825.101). New York and North Carolina’s statutes require that the victim be 60 years of age or older and unable to properly care for themselves for someone to be charged for abuse or financial exploitation under the states’ criminal abuse and/or financial exploitation

statutes. Washington's statute requires that the victim be at least 60 years old and "frail", whereas Wisconsin's statute requires the victim to be at least 60 years old and "at risk". According to Wisconsin statute 46.90(1)(br) an "elder at risk means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation".

All states, regardless of whether they have age-specific statutes, also have traditional common law statutes that criminalize violence, abuse, and financial exploitation behaviors and delineate associated punishments. Therefore, the decision whether or not to prosecute a defendant under the state's age-specific statute or the traditional abuse or financial exploitation statute rests upon the prosecutor; meaning there is likely substantial variation within these states as to whether individuals are charged under the age-specific statute or under the traditional common law statute.

In the future, as the population of older adults continues to grow, more states may begin to add age-specific statutes intended to protect older adults from abuse and financial exploitation. Simultaneously, public and legislative attention has been growing regarding abuses and financial exploitation committed against older adults who are the subject of guardianship provisions. As a result, some states and the federal government have been revising guardianship provisions to ensure that older adults are not abused or exploited through the establishment of the court-ordered guardianships (Nguyen and Rubel 2016; United States Senate Special Committee on Aging 2018). For example, Florida has passed a series of laws in the past decade revising guardianship laws to provide increased protection for wards in guardianship proceedings. Florida House Bill 635 enhanced the screening process for proposed guardians by making the process more stringent and authorizing stricter scrutiny of a guardian's control over the ward's assets (Nguyen and Rubel 2016). These changes were enacted as a direct result of the testimony from multiple people about abuses and exploitations that occurred because of guardianship. The growing population of older adults have captured the attention of lawmakers across the United States and there has been a rapid proliferation of legislation intended to protect the interests, safety, and livelihoods of older adults. Whether and how long this activity will continue into the future and its effectiveness remains in question.

5. Discussion

Older adults are vulnerable for many forms of abusive, neglectful, and exploitive behaviors. Along with the rapid growth of the older adult population has been increasing attention from the public, policymakers, and researchers regarding the victimization of this vulnerable segment of the American population. However, there remains a significant lack of understanding about the causes, consequences, and responses to crimes committed against older adults and about the people who victimize them. While age-specific legislation criminalizing abuse, neglect, and financial exploitation of older adults only began in the late 1990s, the implementation of older adult protections and laws have closely mirrored long-standing statutes designed to protect children from abuse and neglect. Both older adults and children are especially vulnerable to victimization and require enhanced protection. However, as with the child welfare movement, the process of enacting legislation intended to protect older adults has been uneven, fragmented, and heavily influenced by groups of advocates, the medical field, the media, public outcry, and lawmakers often responding to pressures centered upon publicized older adult mistreatment cases.

Like that of child abuse and neglect, responses to the abuse, neglect, and financial exploitation of older adults presents numerous challenges for the criminal justice system. First, it has been well documented that cases of older adult victimization, regardless of type, are vastly underreported. Second, of the cases that are reported, there are often significant difficulties associated with the investigation and prosecution of these crimes (e.g., concerns about competency, consent, and victim cooperation). The American Prosecutors Research Institute (2003) found that only 30% of local prosecutors' offices had units devoted exclusively to older adult abuse cases (usually these were in only the most populous

jurisdictions) and fewer than 25% had victim advocates who worked exclusively with older adult victims to navigate the criminal justice process and aid in their recovery. Law enforcement agencies and prosecutors' offices should consider adding specialized units to work with older adult victims. However, doing so may be cost-prohibitive in some jurisdictions. In these instances, the agencies and offices may consider cross-training existing staff who would not necessarily work exclusively with older adults but would have specialized training in how best to respond to their unique needs.

As previously described, there has not been a well-coordinated effort on behalf of the federal or state governments to enact age-specific legislation focused on abuse, neglect, and financial exploitation of older adults. As a result, there is substantial variability across the country. Some states do not have age-specific legislation, others have comprehensive age-specific statutes, and others have age-specific legislation that is conditioned on factors other than the age of the victim (e.g., vulnerability, frailty, dependence). Given the variability of legislation, the growing older adult population, and likely increases in their victimization rates, rigorous empirical research is needed to better understand the causes, consequences, and responses to the growing social problem of older adult victimization. There is a need to understand how the judicial system handles reporting, what barriers exist to effective identification, prosecution, and sentencing of offenders, and how the barriers can be overcome (Petersilia 2001).

In beginning to understand appropriate and effective responses to older adult victimization, important lessons can be learned from the child welfare movement. For example, specialized or "problem-solving" courts have been implemented across the country to better address issues of child welfare. These courts have trained personnel that only hear cases about children's issues (for an example, see [Florida Courts n.d.](#)). Similarly, guardian ad litem programs provide a trained court-appointed person to represent the interests of children during court proceedings. Some states have also enacted hearsay exception laws for cases involving children if their statements involved abuse or neglect. Each of these strategies may also be helpful for cases involving older adult victims, given the similarities with children regarding concerns about competency, communication, and vulnerability.

The potential for negative unintended consequences is another lesson that can be learned from the movement to protect children. The mission of the early juvenile court was to protect delinquent children. However, what occurred was rapid net-widening in which the jurisdiction of the court was expanded to include children who were abused, neglected, and orphaned (Blomberg and Lucken 2010), many of whom were removed from their homes and placed in institutions, facing a range of negative consequences. Connections to these unintended consequences can be drawn to the abuses that have been documented because of broad and unchecked guardianship laws that states and the federal government are currently seeking to correct.

Globally, the United Nations and World Health Organization are partnering on an initiative titled the Decade of Healthy Aging 2021–2030, with the objective of improving the well-being of all older adults around the world (United Nations 2022). Protecting against abuse and financial exploitation is an important component of ensuring well-being. Therefore, moving forward, it will be critical for researchers and policymakers alike to devote considerable attention to understanding the causes and consequences of older adult abuse that can inform strategies for effective prevention and response.

To begin, policy-oriented research should explore the similarities and differences between child and older adult victims of abuse. Because age-specific laws designed to protect children from abuse and victimization have been in existence for much longer than those designed to protect older adults, the associated successes and challenges may be translated into policy and practice recommendations for the refinement and development of additional statutes intended to protect older adults from abuse, financial exploitation, and victimization.

It will also be critical for researchers to identify potential positive and negative outcomes associated with targeted and age-specific legislation. Some areas in need of research

attention are whether age-specific laws are having their intended outcomes. For example, in states where these laws exist, do prosecutors prosecute under the traditional common law statute or the age-specific statute more frequently? How do sentences compare for people who are charged under the traditional versus age-specific statute? Do age-specific laws have any deterrent effect? It will be important for researchers to compare and contrast these various outcomes across the different types of statutes intended to protect older adults from abuse, neglect, and financial exploitation.

Future research should also consider the various age thresholds currently employed in older adult abuse, neglect, and financial exploitation statutes. For example, are prosecutors less likely to charge a defendant under an older adult abuse statute if the victim is 60 years old rather than 75 years old? Are juries more or less likely to render convictions for older adult abuse if the victim is on the lower end of the age threshold? Second, the variability in age thresholds for older adult abuse and financial exploitation statutes across the United States, and more broadly around the world, has resulted in a lack of confidence in prevalence estimates and policy-oriented research about effectiveness. Research should explore the potential utility of employing a standard age threshold at the national and/or international levels. The quality of comparative research, and the associated translation of the findings into policy and practice recommendations, depends upon the standardization of measures.

Qualitative interviews with various stakeholders are needed to better understand the challenges associated with investigating and prosecuting cases with older adult victims. Discussions with law enforcement about variation in reporting and challenges associated with investigating cases involving older adult victims could provide information on the front-end criminal justice system response. Interviews with prosecutors and judges about the challenges they see in the court response are also needed. Third, national surveys of older adults would provide valuable input on concerns and needs directly from those we seek to protect. While much legislative change has occurred, it has been largely without the active voice of older adults.

As the population of older adults continues to increase in the United States, policy-makers and practitioners are likely to continue enacting legislation and seeking effective strategies for prevention and protection. However, the best written policies are of little value if implementation and real-world implications are not considered. Abuse and financial exploitation of older adults can be especially difficult to address through policy because this crime is frequently underreported to law enforcement and can be difficult to investigate and prosecute, especially if victims are reluctant to cooperate and/or experiencing cognitive impairment.

To achieve the best outcomes, collaboration between researchers and policymakers will be critical. Researchers should translate findings from their research into actionable policy and practice recommendations and legislative bodies should carefully consider the intent of policies and look to past statutes and research for lessons to best protect vulnerable older adult citizens. As we have argued, some of these lessons can be obtained from the long-standing and robust movement to protect children. The translation of research findings into policy and practice recommendations will enable lawmakers to make evidence-informed decisions when addressing the large and growing social problem of older adult abuse, neglect, and financial exploitation.

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