



Best Practices for Prosecutors: Communicating with Older Victims in Elder Abuse Cases

A Quick-Reference Tip Sheet

Effective prosecution of elder abuse begins with effective communication. Building trusting working relationships with older victims requires intentional, specialized approaches that are in some ways different from working with younger victims of abuse. This tip sheet provides practical guidance for prosecutors at every stage of an elder abuse case.

Check Your Assumptions First

Ageism is pervasive and often unnoticed. The WHO *Global Report on Ageism* (2021) found that one in two people worldwide hold ageist attitudes toward older adults, and that ageism is “socially accepted and usually unchallenged” in ways that other forms of oppression are not.¹ The common assumptions people make about older adults can impact a prosecution in different ways.

- ☐ An older victim’s reluctance to participate is not a reason to decline a case, it is a reason to invest more in the relationship.
- ☐ “They were going to die anyway” is never an acceptable reason to deprioritize a case. Ask yourself: Would I say this about a younger victim?²
- ☐ Do not assume the victim will be a poor witness. Like all victims, older adults can be articulate, compelling, and determined, given the right preparation and support.
- ☐ Avoid elderspeak: simplified speech, exaggerated tone, and pet names (“sweetie,” “honey,” “dear”) that reinforces stereotypes of dependence and frailty of older people. Many older adults find this type of communication to be patronizing and disrespectful. One study showed elderspeak increases resistive behaviors in older adults, with the probability of resistance nearly doubling compared to normal speech.³

Before You Make Contact

- ☐ Learn about the victim before your first meeting. Review the police report, Adult Protective Services (APS) records, medical records, and any prior statements. Understand their living situation, relationship with the defendant, and any cognitive, mobility, or sensory issues.
- ☐ Identify communication needs. Does the victim have hearing loss, vision impairment, a speech disorder, or a primary language other than English? Plan accommodations in advance.
- ☐ Pursue victim contact proactively. Do not wait for them to contact you.
- ☐ Choose the right setting. Go to the victim if possible, especially for sensitive crimes. Their home or a comfortable, familiar environment is better than the courthouse.⁴
- ☐ Choose the right time of day. Some older adults, especially those with cognitive impairment, function better in the morning. Avoid late afternoon when fatigue and “sundowning” may be factors.⁵
- ☐ Arrange for a victim advocate to be present if possible. Older victims often benefit from services traditionally offered by a domestic violence or sexual assault program (DV/SA)—safety planning, counseling, transportation, housing, financial/benefits advocacy.⁶
- ☐ Consider having a witness present (victim/witness staff or an officer) in case of recantation or other exculpatory statements.

Building Rapport and Trust

Trust does not happen automatically, and for older survivors it may take longer to establish. The following strategies can help prosecutors build the kind of relationship that supports a survivor's participation from first contact through resolution. Generational norms around privacy, gender roles, and family loyalty shape how older victims understand and disclose abuse. It's crucial to meet them where they are, not where you are.

- ☐ Show genuine interest. Do not just talk about the case. Ask about their life, their concerns, their needs.
- ☐ Pursue victim contact proactively. Do not wait for them to contact you.
- ☐ Address them as Mr. or Mrs./Ms., or ask them what they'd like to be called – do not use their first name unless invited to do so.

- ☐ Start by explaining the role of the prosecutor. This may be their first time interacting with the criminal justice system. Describe what they can expect as next steps. Listen to their questions and concerns.
- ☐ Show genuine interest. Do not just talk about the case. Ask about their life, their concerns, their needs.
- ☐ Prioritize the victim's priorities; ask them what they want to happen and revisit this over time.
- ☐ Do not talk too much, especially during the first meeting. Listen more than you speak.
- ☐ Do not make assumptions about how the victim should respond to you. Reactions to abuse are individual and complex.
- ☐ Do not take anger or a lack of trust personally. Many older victims have had negative experiences with institutions, or they may be trying to determine whether you are trustworthy.
- ☐ Do not argue with the victim. If they are not ready to participate, respect that—and come back.
- ☐ Focus on them and their needs, not just on what you need for the case. The relationship must be genuine.
- ☐ Be patient. Eventually, you may build trust with the victim.
- ☐ Remember that victims have entire lives and personal histories outside of your case and your involvement with them.
- ☐ Older adults are not a monolith. A victim's culture, ethnicity, faith tradition, immigration history, and life experience all shape how they communicate, what they trust, and what they're willing to say out loud.

Communication Adaptations

Some older adults experience age-related changes in hearing, vision, cognition, and communication style that may require adaptations—be mindful of assumptions about credibility.⁷

- ☐ Speak clearly and at a normal pace. Do not shout or exaggerate your enunciation.
- ☐ Face the victim directly. Make eye contact. Some older adults rely on lip reading and facial cues more than they realize.
- ☐ Minimize background noise. Turn off televisions, close doors, and move to a quiet space.

- ☐ Use plain language, but do not oversimplify. Older adults are adults. Speak to them with the respect you would give any other witness.
- ☐ Allow extra time for responses. Silence is not confusion—it may be thoughtful processing. Do not rush or interrupt.
- ☐ Be prepared to conduct multiple shorter meetings rather than one long session.
- ☐ Prioritize phone calls and in-person meetings over email and text. Some older adults do not use email regularly, and a prosecutor who communicates only electronically may inadvertently signal that the case is not important.

When Cognitive Capacity Is a Concern

- ☐ If the victim has cognitive impairment, consult the [DOJ's SAFE \(Safe and Accessible Forensic Interviewing for Elders\)](#) protocol for guidance on victim-centered, trauma-informed interviewing techniques adapted for older adults.⁸
- ☐ A dementia diagnosis does not mean the victim cannot participate in the case or provide reliable information. Competency to testify requires only a minimal ability to observe, recollect, communicate, and understand the duty to tell the truth.¹⁰
- ☐ Review the updated [MRPC 1.14](#): Client With Decision Making Limitations, which reads in part: “A lawyer shall, as far as reasonably possible, maintain an ordinary client-lawyer relationship with a client with decision-making limitations, including when the client’s decision-making limitations impact the client’s ability to provide direction to the lawyer or make reasoned, informed choices.”
- ☐ If a cognitive impairment is present, do not assume incapacity. Remember capacity is a continuum, and an individual may be limited in one domain while functioning well in others.
- ☐ Be aware that even individuals with advanced dementia can recall emotional, traumatic experiences with accuracy, even if details are recalled more slowly or out of chronological order.⁹

Understanding Victim Behavior in Context

Older victims’ responses to abuse are shaped by factors that may be unfamiliar to prosecutors accustomed to working with younger victims.

- ☐ Long-term relationships: The abuser may be a spouse of 50 years, an adult child, or a trusted caregiver. The victim may love the person who is harming them.
- ☐ Dependence: The victim may be financially, physically, or medically dependent on the abuser and may fear that prosecution will leave them without the care or support they need.¹¹
- ☐ Fear of institutionalization: Many older victims fear being placed in a nursing home more than they fear the abuse itself.
- ☐ The impact of trauma: Trauma's neurobiological effects can cause victims to appear inconsistent, detached, or unreliable — through delayed reporting, recantation, limited communication, or reluctant participation — when these behaviors are actually normal survival responses, not indicators of fabrication or cognitive impairment.
- ☐ Identity: Older victims may not identify as “victims,” especially if the abuse is financial or involves neglect. They may feel shame or embarrassment.
- ☐ Generational context: Many older adults were raised in an era where family problems were not discussed with outsiders, law enforcement was not seen as an appropriate resource for a private matter, and self-reliance was paramount.
- ☐ Undue influence and coercion: When a victim takes the defendant’s side, consider whether the victim’s expressed wishes are truly their own or the product of manipulation, intimidation, or fear of retaliation.¹²
- ☐ It is not uncommon for a victim to take the defendant’s side. They need to do what they believe is best for themselves, their safety, and their personal concerns. This is not a failure of your rapport building—it reflects the complexity of the victim’s situation.

When the Victim Cannot or Will Not Participate

An unavailable victim, or one who chooses not to participate in the prosecution, does not mean an unprosecutable case.¹³

- ☐ Pursue evidence and testimony that allows you to proceed without the victim: medical records, financial records, defendant’s own statements, lay witnesses, APS records, digital evidence, and physical environment documentation.
- ☐ Use post-Crawford litigation or the forfeiture by wrongdoing doctrine (*Giles v. California*, 554 U.S. 353 (2008)) when the defendant’s conduct—

including ongoing abuse, isolation, or intimidation—caused the victim’s unavailability.¹⁴

- ☐ Preserve the testimony of dying or otherwise unavailable victims via deposition. They still deserve justice.
- ☐ Make diligent efforts to procure the victim’s appearance even when pursuing evidence-based prosecution strategies.
- ☐ Consider whether the victim can be protected from cross-examination by a pro se defendant through forensic video, screen, or closed-circuit television testimony—if your statutes and constitution allow alternatives to face-to-face confrontation.

Protecting the Victim Throughout the Process

- ☐ Seek bail/bond conditions that include no-contact restrictions.
- ☐ Request no-contact orders while the defendant is in custody, including restrictions on jail telephone, mail, Zoom, and contact with other inmates if necessary.
- ☐ Extend protections through conditions of probation, extended supervision, parole, and incarceration.
- ☐ Coordinate with victim advocates, APS, and community-based aging services to address the victim’s safety, housing, medical, and financial needs—not just the criminal case.
- ☐ Connect older victims to services: DV/SA programs, legal aid, area agencies on aging, and long-term care ombudsman programs. Many older victims are unaware these resources exist.

In the Courtroom

Judges

- ☐ Understand the judge’s perspective. Find the areas where your interests align and argue from that common ground.
- ☐ Do not rely on the judge to understand elder abuse dynamics. You are the expert—educate the court through briefing and argument.
- ☐ Be assertive when necessary. Ask for reconsideration if warranted. Make a good record for appeal.

Defense Counsel

- ☐ Find mutual interests with the defense. There always are some.

- ☐ Talk to defense counsel directly—pick up the phone, do not just send email.
- ☐ Pursue negotiation where appropriate. Do not put the victim through an unnecessary trial.

Juries

- ☐ During voir dire, help the jury understand why the victim may not appear or may not be on the State's side. Do not wait until the presentation of evidence—juries do not want to be surprised.¹⁵
- ☐ Screen for ageist attitudes that may affect how jurors view the older victim's credibility, worth, and entitlement to justice.
- ☐ Never overpromise. You are building rapport and trust with the jury throughout the trial, just as you do with every other person in the case.

Present yourself as reasonable, even-handed, and seeking truth and justice. Stay grounded in your role.

- ☐ Approach your relationship with the victim with intention – clear, respectful, patient communication is essential to building trust, helping the victim feel heard, and supporting meaningful participation. This is especially true when working with older adults who may have experienced ageism and have concerns about loss of autonomy.
- ☐ Balance empathy with your role - center the older victim's needs and perspectives while maintaining transparency, professionalism, and your responsibility to the case.
- ☐ Maintain professional boundaries—do not age-related assumptions or your own personal feelings or reactions influence your decisions or your communication with the victim or others in the case.

Resources

- **NCALL**
 - Prosecutor Resources: ncall.us/for-professionals/prosecutors/
 - NIPEA (National Institute on the Prosecution of Elder Abuse): Contact ncall@ncall.us
- **National District Attorney's Association (NDAA) Elder Justice Initiative:** ndaa.org/elder-justice-initiative
- **AEquitas – Free 24/7 Case Consultations:** aequitasresource.org/consultations
- **US Department of Justice Elder Justice Initiative:**

- **SAFE Forensic Interviewing Training:** justice.gov/elderjustice/safe-training
- **Prosecutor Training Videos:** justice.gov/elderjustice/prosecutor-training-resources

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