



June 2019

ELDER JUSTICE

Goals and Outcome
Measures Would
Provide DOJ with
Clear Direction and
a Means to Assess
Its Efforts

GAO Highlights

Highlights of [GAO-19-365](#), a report to congressional committees

Why GAO Did This Study

Researchers estimate that as many as 1 in 10 older adults in the United States—age 60 or older—experience abuse each year. Elder abuse may involve physical, sexual, emotional, or financial abuse or neglect. It can occur by family, guardians, or caregivers as well as by strangers and international criminal enterprises, which operate schemes for monetary gain or to facilitate other criminal activities. According to media reports and congressional testimony, some older U.S. citizens who have traveled abroad have unwittingly participated in illicit activities, and in some cases, have been arrested in foreign countries.

EAPPA included a provision for GAO to review elder justice efforts in the federal criminal justice system. This report examines (1) the ways DOJ works to address crimes against older adults, and to what extent DOJ is planning for and assessing its efforts; and (2) how the Departments of State and Homeland Security address the arrest of older U.S. citizens abroad, including arrests involving international criminal enterprises. GAO reviewed agency policy documents, and interviewed agency officials, as well as a nongeneralizable sample of elder abuse stakeholders and state and local officials selected for their experience in this area.

What GAO Recommends

GAO made two recommendations related to developing and documenting goals and outcome measures for DOJ's elder justice work. In its response, the agency outlined steps to address the recommendations.

View [GAO-19-365](#). For more information, contact Gretta L. Goodwin, 202-512-8777, goodwin@gao.gov or Jenny Grover at (202) 512-7141 or groverj@gao.gov.

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ELDER JUSTICE:

Goals and Outcome Measures Would Provide DOJ with Clear Direction and a Means to Assess Its Efforts

What GAO Found

The Department of Justice (DOJ) has established several efforts to address elder abuse, including neglect and exploitation, but its planning and assessment of its elder justice efforts are limited. For example, DOJ has established several working groups and in accordance with the Elder Abuse Prevention and Prosecution Act (EAPPA)—enacted in October 2017—designated an elder justice coordinator in each of its 94 U.S. Attorneys' Offices. In addition, DOJ provides training and educational materials on elder justice topics for its own staff, as well as state and local officials, and also offers grants to state and local entities that can be used to address elder abuse.

Despite these efforts, DOJ has not developed and documented goals (e.g., enhancing coordination with state and local officials) that articulate the common outcomes it seeks to achieve through its elder justice work. DOJ also has not developed outcome measures that track the agency's progress on its overall elder justice efforts, for example, a means to measure if its coordination practices have been useful and relevant over time to state and local officials. DOJ officials stated that they do have goals, and noted that one of them is to comply with EAPPA. However, implementing the requirements outlined in EAPPA is not a goal that articulates a common outcome that the agency is seeking to achieve through its efforts. Developing and documenting goals and outcome measures, which is consistent with both leading practices and internal control standards, would assist with DOJ's planning—providing direction for what it seeks to achieve—and its assessment of overall effectiveness.

The Department of State has a number of policies and procedures to assist all U.S. citizens arrested abroad, including older U.S. citizens, and the Department of Homeland Security conducts some arrest investigations abroad. For example, trained Department of State staff at overseas posts and in Washington, D.C. provide emergency and non-emergency services to U.S. citizens arrested abroad, such as visits to the place of detention and medical assistance. They also take actions to ensure that U.S. citizens arrested abroad are treated humanely and fairly. In December 2018, the Department of State revised its policies by adding "elderly prisoners" to the list of special arrest cases, or cases that may require additional attention. The Department of Homeland Security investigates arrests in foreign countries of U.S. citizens, including older U.S. citizens, who were tricked into smuggling drugs by international criminal enterprises.

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Abbreviations

ACS	American Citizen Services
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
DOJ	Department of Justice
EAPPA	Elder Abuse Prevention and Prosecution Act
FBI	Federal Bureau of Investigation
GPRA	Government Performance and Results Act of 1993
GPRAMA	GPRA Modernization Act of 2010
ICE	U.S. Immigration and Customs Enforcement
Treasury	Department of the Treasury

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June 7, 2019

Congressional Committees

Researchers estimate that as many as 1 in 10 older adults in the United States—age 60 or older—experience abuse each year, although elder abuse is generally underreported.¹ Elder abuse may involve physical, sexual, emotional, or financial abuse or neglect and can come at the hands of trusted individuals such as family, guardians, and caregivers. It can also be carried out by strangers and by international criminal enterprises. Such enterprises operate schemes for monetary gain or to facilitate other criminal activities, via mass mailings, the phone, and the Internet. According to media reports and congressional testimony, after becoming caught up in the exploitative activities of international criminal enterprises, some older U.S. citizens have traveled abroad and unwittingly participated in illicit activities such as smuggling drugs. In some cases, older U.S. citizens' involvement in these illicit activities has resulted in their arrest in foreign countries.

The Elder Abuse Prevention and Prosecution Act (EAPPA) includes a provision for us to review elder justice efforts in the federal criminal justice system.²

Accordingly, this report examines (1) the ways the Department of Justice (DOJ) works to address crimes against older adults, including exploitation by international criminal enterprises, and the extent to which DOJ is planning for and assessing its efforts; and (2) how the Departments of State and Homeland Security address the arrest of older U.S. citizens abroad, including arrests involving international criminal enterprises.

¹R. Acierno, M.A. Hernandez, A.B. Amstadter, H.S. Resnick, K. Steve, W. Muzzy, D.G. Kilpatrick. "Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study," *American Journal of Public Health*, vol. 100, no. 2 (2010): pp. 292-297. E.O. Laumann, S.A. Leitsch, L.J. Waite. "Elder Mistreatment in the United States: Prevalence Estimates From a Nationally Representative Study," *Journals of Gerontology Series B*, vol. 63, no. 4 (2008): pp. S248-S254. M.S. Lachs and K.A. Pillemer. "Elder Abuse," *The New England Journal of Medicine*, vol. 373 (2015): 1947-1956.

²Pub. L. No. 115-70, § 502, 131 Stat. 1208 (2017). This section of EAPPA, which was enacted on October 18, 2017, directs us to report no later than 18 months after the date of enactment.

To understand the ways DOJ works to address crimes against older adults, including exploitation by international criminal enterprises, we took a number of steps. For the purposes of our work, we first defined an “older adult” as any person age 60 or older residing in the United States or its territories. Next, we defined elder justice efforts as those that serve to prevent, detect, treat, understand, intervene in, and where appropriate, prosecute elder abuse, neglect, and exploitation.³ Operating with these terms, we then reviewed key DOJ documents, such as the DOJ Strategic Plans for Fiscal Years 2014-2018 and 2018-2022. We also reviewed internal and publicly-available DOJ documents related to elder justice, such as training presentations and webinars. We next identified and examined the scope and purpose areas of the 10 DOJ grant programs that could be used to support elder justice activities. Further, we interviewed officials from various DOJ components that work on elder justice such as the Office of the Deputy Attorney General, including DOJ’s Elder Justice Coordinator and the Executive Office for United States Attorneys. We also interviewed a nongeneralizable sample of stakeholders from organizations that seek to address elder abuse and asked questions about DOJ’s efforts to address crimes against older adults. We identified these stakeholders by conducting background research and by asking those stakeholders who we interviewed to recommend additional stakeholders with whom we should speak.

We also interviewed a nongeneralizable sample of DOJ’s Elder Justice Coordinators—Assistant U.S. Attorneys selected to focus on cases related to elder abuse—to learn more about their roles and accomplishments. Specifically, we interviewed 12 Elder Justice Coordinators from U.S. Attorneys’ Offices in five states: California, Florida, Maine, Minnesota, and Washington. We selected these states primarily based on recommendations from the elder justice stakeholders we interviewed, and we also took into consideration the percentage of individuals age 60 and above residing in the state, as well as geographic diversity.⁴ We further requested that each Elder Justice Coordinator we interviewed provide three state or local officials with whom they have the most substantive partnerships to address elder abuse. We did not define

³See 42 U.S.C. § 1397j(5), (6).

⁴Every selected state was recommended by at least one elder justice stakeholder we interviewed. The percentage of individuals age 60 and above by state was calculated using the most recent publicly-available data (July 2017) from the U.S. Census Bureau. Geographic diversity was considered in addition to stakeholder recommendations and percentage of older adults residing in the state.

“most substantive partnerships” explicitly in our request, and instead asked that each Elder Justice Coordinator use his or her judgment to provide contacts that were best positioned to discuss elder justice issues and the ways in which the state or local officials work with DOJ. We subsequently held group interviews by state with a total of 17 state and local officials regarding their work with DOJ on elder justice or their use of DOJ elder justice resources.

To address the extent to which DOJ is planning for and assessing its elder justice-related efforts, we analyzed documentary and testimonial evidence about the steps DOJ had under way, and compared DOJ’s steps to internal control standards, which include principles related to ensuring accountability through documentation.⁵ We also compared DOJ’s steps to leading practices based on the Government Performance and Results Act of 1993 (GPRA) and the GPRA Modernization Act of 2010 (GPRAMA), which create a framework of goal setting and performance management for federal agencies.⁶ While GPRA and GPRAMA apply to the department or agency level, we have previously reported that their provisions can serve as leading practices at other organizational levels, such as component agencies, offices, programs, and projects.⁷

To address our second question, we also took several steps. First, we defined “older U.S. citizens” as adults age 60 or older with U.S. citizenship status—regardless of whether they were living in the United States or abroad. We then defined “international criminal enterprises” as transnational organized crime groups that are self-perpetuating associations of individuals who operate, wholly or in part, by illegal means and irrespective of geography. We then reviewed the Department of State’s policies and guidance, specifically relevant sections of the Foreign Affairs Manual. We also reviewed the chapter on arrest cases in the user manual for the American Citizen Services system, the Department of State’s case management system. In addition, we reviewed relevant Department of State websites offering tips and warnings for older adults

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

⁶GPRAMA, Pub. L. No. 111-352, 124 Stat. 3866 (2011), updated GPRA, Pub. L. No. 103-62, 107 Stat. 285 (1993).

⁷See, for example, GAO, *Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation*, [GAO-12-77](#) (Washington, D.C.: Oct. 6, 2011).

traveling abroad. We also interviewed Department of State officials, including those from the Bureau of Consular Affairs. Additionally, we reviewed Department of Homeland Security (DHS) information related to their investigations and operations, such as congressional testimonies of U.S. Immigration and Customs Enforcement (ICE) officials. Further, to learn more about their role related to arrests abroad and the role of international criminal enterprises, we interviewed DHS officials, including those from U.S. Customs and Border Protection (CBP). For additional details on our scope and methodology, see appendix I.

We conducted this performance audit from January 2018 to June 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

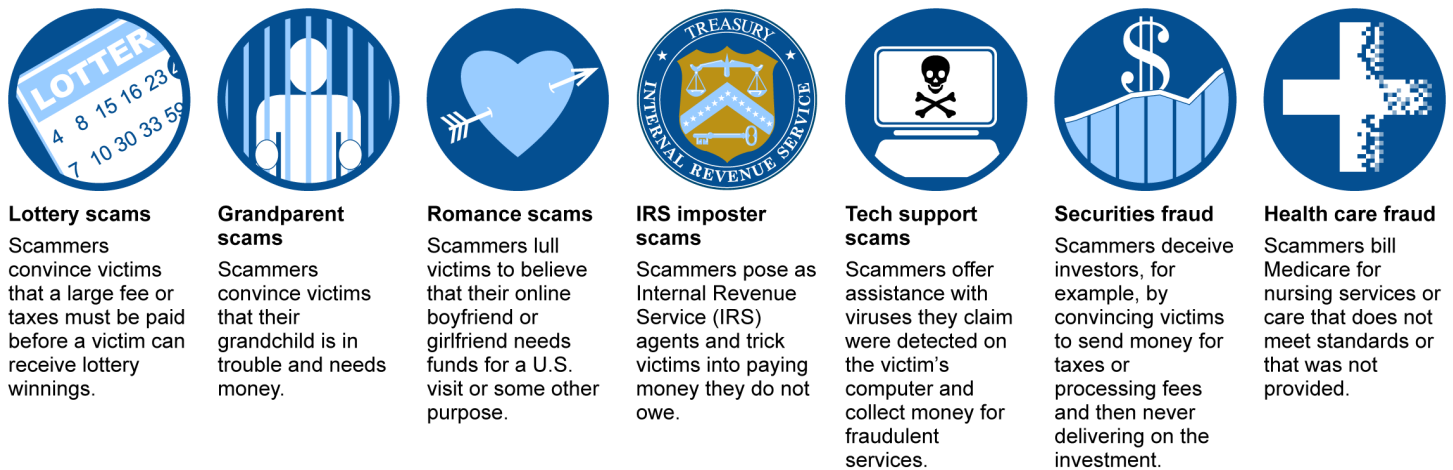
Though elder abuse includes a range of transgressions, older adults are particularly attractive targets for financial scams. As a group, older adults tend to possess more wealth than those who are younger because they have had a longer time to acquire it. In addition, the incidence of Alzheimer's disease and other dementias that undermine judgment increases with age.⁸ Moreover, financial capacity—the capacity to manage money and financial assets in ways that meet one's needs—generally declines with age, and this decline may go unaddressed until it is too late.⁹

Several types of scams affect older adults—see figure 1 for the most common.

⁸Hebert et al., "Alzheimer Disease in the US Population," *Archives of Neurology*, 60 (August 2003): 1119-1122.

⁹Agarwal et al., "The Age of Reason: Financial Decisions over the Life Cycle with Implications for Regulation," *Brookings Papers on Economic Activity* 2 (Washington, D.C.: 2009): 51-117.

Figure 1: Examples of Scams Commonly Committed Against Older Adults in the U.S.



Source: GAO analysis of information from the U.S. Senate Special Committee on Aging, Department of Justice, Department of State, and Department of Treasury. | GAO-19-365

Role of Various Government Entities

State and local agencies in the social services, criminal justice, and consumer protection systems in each state are at the forefront of efforts to prevent, detect, and respond to elder abuse.¹⁰ At the state and local level, Adult Protective Services agencies investigate and substantiate reports of suspected elder abuse, including financial exploitation.¹¹ Adult Protective Services can also refer cases to state or local law enforcement agencies or district attorneys for criminal investigation and prosecution. Law enforcement agencies and state and local prosecutors can exercise broad discretion when deciding if a case warrants any action on their part.

States and localities, however, face challenges in investigating and prosecuting some types of elder abuse. For example, complex financial crimes and crimes with an international component sometimes require the federal government to get involved. DOJ plays a lead role in the federal criminal justice system as well as in federal efforts to address elder justice.¹² According to DOJ officials, federal law contains no statutes that

¹⁰In some states there are criminal penalties for abusive behavior toward older adults, and some states provide enhanced penalties for certain crimes if they are committed against older adults.

¹¹Adult Protective Services is a program provided by state or local governments.

¹²Additionally, DOJ provides assistance to victims of crime, including elderly victims, such as referring victims for assistance with counseling, employment, housing, immigration, medical, and legal services; and providing notification regarding the status of a case.

criminalize abusive behavior toward older adults specifically. Rather, abusive behavior toward older adults is prosecuted at the federal level under a variety of statutes. For example, health care fraud cases, some of which involve older victims, can be prosecuted under criminal fraud statutes or pursued through civil actions filed under the False Claims Act.¹³ There are also statutes in place to prosecute large-scale mail fraud, wire fraud, or mass-marketing fraud regardless of the victim's age.

The Elder Justice Act of 2009 and the Elder Abuse Prevention and Prosecution Act (EAPPA) include provisions regarding DOJ's efforts to address elder abuse. The Elder Justice Act of 2009 established an Elder Justice Coordinating Council and named the Attorney General as a permanent member.¹⁴ EAPPA established several requirements for DOJ related to elder justice.¹⁵ The requirements include, for example, designating coordinator positions, implementing elder justice training, and reporting to Congress on the number of enforcement actions DOJ has taken involving elder abuse. See appendix II for a description of all EAPPA requirements involving DOJ.

In addition to DOJ, other federal agencies, such as the Consumer Financial Protection Bureau, Department of Health and Human Services, Department of Homeland Security, Department of Treasury, Federal Trade Commission, the Securities and Exchange Commission, and United States Postal Inspection Service also investigate violations of federal consumer financial law, international and interstate cases of consumer fraud and deception, domestic and cross-border cases of securities, and mail fraud. In some cases, these agencies may pursue civil enforcement actions and refer criminal matters to DOJ for prosecution.

Other federal agencies monitor the arrest of U.S. citizens in foreign countries, including arrests of older U.S. citizens who may have unwittingly committed crimes involving international criminal enterprises. The protection of U.S. citizens overseas, including the provision of services to U.S. citizens arrested abroad, is one of the Department of

¹³See 18 U.S.C. §§ 287, 1001; 42 U.S.C. § 1320a-7b.

¹⁴See 42 U.S.C. §§ 1397k and 1397k-1. The Elder Justice Coordinating Council is responsible for and making recommendations to Congress regarding the coordination of elder justice activities across federal, state, and local entities.

¹⁵See Pub. L. No. 115-70, 131 Stat. 1208 (2017).

State's primary functions. Providing these services is the responsibility of the Bureau of Consular Affairs and is carried out by staff at embassies and consulates. The Bureau of Diplomatic Security's Diplomatic Security Service conducts day-to-day law enforcement and security operations for the Department of State.

DHS's ICE's Homeland Security Investigations and CBP engage in ongoing efforts to identify, disrupt, and dismantle transnational criminal networks by targeting the illicit pathways and organizations that engage in cross-border criminal activity including, but not limited to, those that exploit older individuals. Homeland Security Investigations is an investigative arm of DHS and helps to combat criminal organizations illegally exploiting America's travel, trade, financial and immigration systems. CBP protects the United States from terrorist threats and prevents the illegal entry of inadmissible persons and contraband, while facilitating lawful travel and trade.

DOJ Prosecutes Crimes Against Older Adults, Among Other Actions, but Its Planning and Assessment of Elder Justice Efforts Are Limited

DOJ Investigates and Prosecutes Crimes Against Older Adults and Supports Stakeholders with Training and Grants

Investigations and prosecutions

DOJ has established several elder justice efforts to address elder abuse, including neglect and exploitation. While DOJ independently established some of these efforts, DOJ expanded its elder justice efforts in accordance with EAPPA requirements. DOJ's elder justice efforts generally include investigations and prosecutions, training and educational materials, and grants.

The DOJ components most frequently involved in the investigation and prosecution of cases involving elder abuse include the Civil and Criminal Divisions, the Federal Bureau of Investigation (FBI), and U.S. Attorneys' Offices, as shown below in figure 2. According to DOJ officials, many factors—including the type of scheme, the alleged facts, where the case

originated, and the expertise needed to conduct investigations and prosecutions—determine which component or components handle the case. DOJ officials explained that many cases involving fraud affect older victims and many fraud schemes are wholly or in part based in another country or the fraud scheme uses foreign infrastructure to facilitate the offense. DOJ Civil Division officials stated that 10 years ago most fraud schemes they investigated were based in the United States. However, the officials stated that it is now unusual to see a mass-marketing fraud scheme that does not have an international component.¹⁶

¹⁶During the course of our review, DOJ announced two nationwide elder fraud sweeps in February 2018 and March 2019, both of which included investigating and prosecuting international elder fraud schemes. See DOJ, *Justice Department Coordinates Nationwide Elder Fraud Sweep of More Than 250 Defendants* (February 22, 2018), and *Justice Department Coordinates Largest-Ever Nationwide Elder Fraud Sweep* (March 7, 2019).

Figure 2: Primary Department of Justice Components that Investigate and Prosecute Crimes Against Older Adults



Source: GAO analysis of DOJ information. | GAO-19-365

Note: The United States Attorneys serve as the chief federal law enforcement officers in their judicial districts. There are 93 United States Attorneys stationed in the 94 districts throughout the United States, Puerto Rico, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. One United States Attorney is assigned to each judicial district with the exception of Guam and the Northern Mariana Islands, where a single United States Attorney serves both districts.

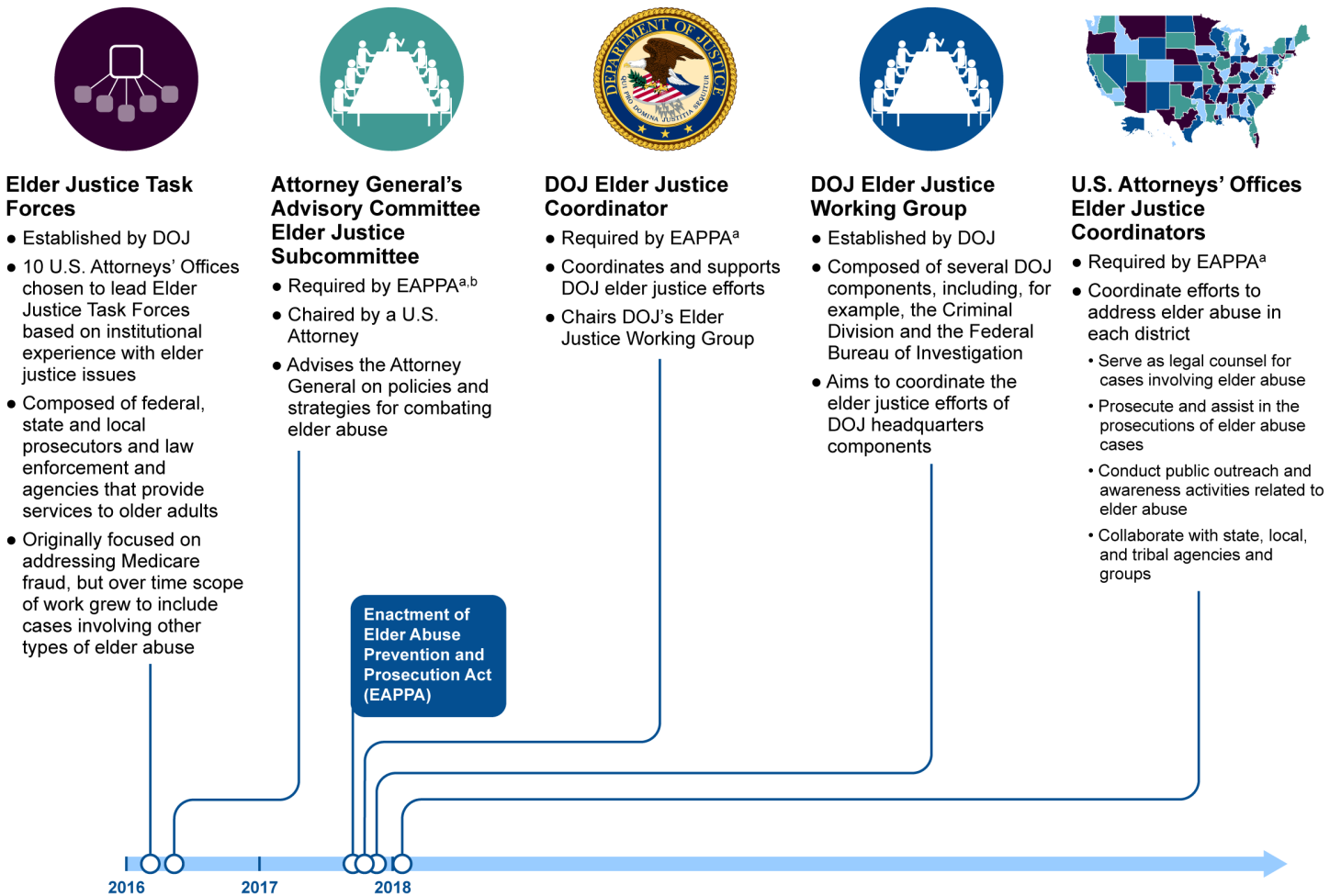
DOJ has established several positions and working groups that support its investigations and prosecutions of crimes that involve elder abuse. In 2001, DOJ established the Elder Justice Initiative, also known as the Elder Justice and Nursing Home Initiative, primarily to pursue cases under the False Claims Act such as Medicare fraud cases against skilled nursing facilities that provided grossly substandard or unnecessary

medical services.¹⁷ In March 2016, DOJ established 10 Elder Justice Task Forces in U.S. Attorneys' Offices in various regions of the country to expand the prosecution of Medicare fraud. According to DOJ officials, these task forces were coordinated and trained under the Elder Justice Initiative. These task forces worked primarily to coordinate Medicare fraud cases but, in at least one instance, expanded to coordinate the investigation and prosecution of cases involving elder abuse more generally. Also, in May 2016, DOJ established the Attorney General's Advisory Committee Elder Justice Working Group (now Subcommittee), which according to DOJ officials, advises the Attorney General and provides a resource to the U.S. Attorneys' Offices on elder justice issues.

Following the enactment of EAPPA in October 2017, DOJ added additional positions and groups focused in some part on the investigation and prosecution of elder abuse. EAPPA required most of these positions or groups, but DOJ also elected to establish groups that were not legally required. For example, in accordance with EAPPA, DOJ designated Elder Justice Coordinators in each of its U.S. Attorneys' Offices, and an agency-wide DOJ Elder Justice Coordinator. Additionally, although not required by EAPPA, DOJ also established an agency-wide Elder Justice Working Group, which brought together various components of the agency that work on elder justice efforts. Figure 3 describes these positions and working groups.

¹⁷In 2007, the Health Care Fraud Unit within the Criminal Division's Fraud Section expanded its focus on Medicare fraud through the creation of the Medicare Fraud Strike Force. The strike force is part of a joint initiative between the Department of Justice and the Department of Health and Human Services to prevent and deter fraud and enforce current anti-fraud laws around the country. According to DOJ officials, since its inception in March 2007, the Medicare Fraud Strike Force, which now maintains 14 strike forces operating in 23 districts, has charged nearly 4,000 defendants who have collectively billed the Medicare program for more than \$14 billion.

Figure 3: Department of Justice (DOJ) Designated Positions and Working Groups that Support DOJ Elder Justice Efforts



Source: GAO analysis of DOJ information; Art Explosion (clip art). | GAO-19-365

^aSee Elder Abuse Prevention and Prosecution Act (EAPPA), Pub. L. No. 115-70, 131 Stat. 1208 (2017).

^bDOJ established the Attorney General's Advisory Committee Elder Justice Working Group in May 2016, prior to the enactment EAPPA, which created a legal requirement for its establishment. DOJ officials stated it is now referred to as the Attorney General's Advisory Committee Elder Justice Subcommittee.

In its October 2018 report to Congress, DOJ stated that it had participated in enforcement actions in 272 civil and criminal cases that “targeted or disproportionately affected” older adults between October 1, 2017, and June 30, 2018.¹⁸ According to DOJ officials, for a case to be included in the count it must have involved a financial scheme or scam, abuse, or neglect; and—based on available evidence—directly target or predominantly affect older adults. As DOJ officials explained, they used the term “predominantly affect” to mean that a majority of the victims in the case were older adults. DOJ officials stated that the figure it reported could both over- and under-estimate the number of DOJ cases involving elder abuse. For example, one of the 272 cases involved a state governor who was sent a mail bomb, which was included in the count because the governor was 60 years old at the time the crime was committed. DOJ officials stated that the case was included because it met the criteria for inclusion in the annual report to Congress but explained that it is important to differentiate between cases that target older victims because of their age and cases that affect older victims but where the victims were not targeted due to their ages. Also, for example, DOJ officials explained that the age of a victim is not always known for every case.¹⁹ DOJ may have taken action in additional cases involving elder abuse that it could not count. The officials further explained that cases were excluded when prosecutors reported that their cases were likely to have involved older victims but where there was no evidence that the victims were at least 60 years old.

DOJ also works with other federal agencies and states to investigate and prosecute elder abuse cases, through referrals, data sharing, and interagency task forces. For example, DOJ relies on referrals from agencies, such as the Federal Trade Commission and the Department of the Treasury (Treasury), as well as state offices, such as state Medicaid

¹⁸Department of Justice, *Attorney General’s Annual Report to Congress on Department of Justice Activities to Combat Elder Abuse and Financial Exploitation* (Washington, D.C.: Oct. 18, 2018). In accordance with EAPPA, DOJ must submit an annual report to certain congressional committees detailing the enforcement actions it has taken over the preceding year for each case in which not less than one victim was an elder or that involved a financial scheme or scam that was either targeted directly toward or largely affected elders.

¹⁹DOJ officials stated that a victim’s personal information, such as age, is only gathered to the extent it is germane to the investigation or prosecution. They also noted that when cases have a high number of victims (thousands or tens of thousands), such as, for example, mass mail fraud cases, it is not possible to determine each victim’s age.

Fraud Control Units.²⁰ DOJ officials stated that they use data collected by other federal agencies whenever necessary, and analyze data primarily from the Federal Trade Commission and other federal databases to identify mass elder fraud and further their investigations and prosecutions. For example, DOJ officials stated that one important source of data they use to investigate and prosecute elder financial exploitation is the Federal Trade Commission's Consumer Sentinel Network database. According to DOJ officials, DOJ and the Federal Trade Commission worked closely to develop additional tools to allow DOJ officials to more effectively use Consumer Sentinel Network data to identify international fraud schemes that affect older victims. DOJ officials told us that they use these tools to search consumer complaint narratives in the database. They noted that their searches allow them, for example, to identify a common perpetrator from multiple complaints due to a single identifier, such as an email address. Also, for example, DOJ officials stated that Treasury's Financial Crimes Enforcement Network (FinCEN) Suspicious Activity Report data is another source of data that they have used to investigate and prosecute elder financial exploitation.²¹ Financial institutions can report suspected elder financial exploitation to the FinCEN database, which DOJ officials may then request to review.²²

Finally, DOJ participates in interagency and intergovernmental groups that address crimes that often affect older adults. For example, DOJ, along with the Federal Trade Commission, co-chairs the International Mass-Marketing Fraud Working Group, a network of civil and criminal law enforcement agencies from several countries, including Australia,

²⁰Medicaid Fraud Control Units are usually a part of states' Attorney General offices and employ teams of investigators, attorneys, and auditors. These individuals investigate and prosecute Medicaid provider fraud, as well as patient abuse or neglect in health care facilities and board and care facilities.

²¹FinCEN administers the Bank Secrecy Act and implements regulations that provide for the filing of Suspicious Activity Reports by depository institutions when they detect a known or suspected violation of any law or regulation. In accordance with the act, financial institutions are required to file Suspicious Activity Reports with FinCEN for transactions that involve or aggregate at least \$5,000 and that the bank knows, suspects, or has reason to suspect that the transaction involves funds derived from illegal activities, among other things. See 31 U.S.C. § 5318(g); 31 C.F.R. § 1020.320.

²²In 2013, FinCEN added a checkbox for "elder financial exploitation" to the Suspicious Activity Report form. According to DOJ officials, only officials in the Money Laundering and Asset Recovery Section of DOJ's Criminal Division and the Consumer Protection Branch of DOJ's Civil Division have access to Suspicious Activity Report data, but others may request access on an as-needed basis.

Belgium, Canada, Europol, the Netherlands, Nigeria, Norway, Spain, the United Kingdom, and the United States, that addresses mass-marketing fraud. Also, for example, DOJ works to support DHS on the Jamaican Operations Linked to Telemarketing Task Force—a U.S.-Jamaican law enforcement effort to disrupt organizations perpetrating Jamaican-based lottery fraud. According to DOJ officials, DOJ has initiated investigations and cases based on this task force’s work. Also, for example, with this task force’s assistance, in September 2018, DOJ announced it had successfully prosecuted one woman for her participation in a Jamaican lottery fraud scheme. This scheme targeted victims age 55 and older and affected about 100 identified victims with reported losses totaling more than \$6.7 million.

Training and educational materials

DOJ provides a variety of internal and external training, as well as educational materials on elder justice topics for federal, state, and local prosecutors and law enforcement officials.

Example of Department of Justice (DOJ) Elder Justice Training

In August 2018, DOJ’s Elder Justice Working Group hosted a 3-day training for all Elder Justice Coordinators in the U.S. Attorneys’ Offices. Examples of presentation topics included building a Medicare fraud case, accessing federal agency partners and resources, best practices for assisting elder victims, and working with state and local partners. Elder Justice Coordinators from our five selected states reported that the content of the training was relevant and useful to their work and that they had the opportunity to network with other Elder Justice Coordinators.

Source: GAO analysis of DOJ information. | GAO-19-365

In its October 2018 report to Congress, DOJ reported offering 196 elder justice trainings with approximately 200,000 participants from October 1, 2017 through June 30, 2018.²³ These trainings were internal (e.g., designed for and offered to DOJ investigators and prosecutors) and external (e.g., designed for and offered to federal, state, local, and tribal officials working on elder justice issues, including local law enforcement and Adult Protective Services officials). According to the report, DOJ has created elder justice-specific training, including, for example, training on EAPPA requirements for Elder Justice Coordinators. In addition, the Executive Office for U.S. Attorneys dedicated its December 2018 issue of the DOJ Journal of Federal Law and Practice to elder justice, which covered several current elder justice topics and activities.²⁴ DOJ has also included elder justice in existing training programs, such as those focused more generally on victim services. FBI has also conducted trainings for its agents, analysts, and victim specialists on elder fraud cases, including economic and financial crimes, according to officials. According to DOJ’s report to Congress, the Elder Justice Initiative presented best practices for the investigation of cases, such as Medicare fraud cases, to FBI

²³Department of Justice, *Attorney General’s Annual Report to Congress on Department of Justice Activities to Combat Elder Abuse and Financial Exploitation* (Washington, D.C.: Oct. 18, 2018).

²⁴See, generally, *The Department of Justice Journal of Federal Law and Practice* vol.66, no.7 (2018).

agents in September 2018, and planned to conduct additional FBI training on working with older adults as victims and witnesses, which DOJ officials stated took place in November 2018. Elder Justice Coordinators also conduct outreach, including training, within their districts.

DOJ also provides educational materials on its Elder Justice Initiative website. These materials have addressed, for example, state statutes related to guardianship laws and civil and criminal financial exploitation.²⁵ They have also provided resources to law enforcement on how to quickly identify, intervene in, and resolve elder abuse in general and those occurring in rural settings and on tribal lands. DOJ also provides additional resources related to elder justice to assist the general public. A description of these resources can be found in appendix III.

Grants

DOJ offers grants to state and local entities that can be used to address elder abuse. Although DOJ administers some grants that are specifically designed to fund programs that address elder abuse, DOJ also administers grants that may be used to address elder abuse because it falls under a broader category of issues that the grant program supports. For example, DOJ's Office for Victims of Crime, which administers Victims of Crime Act funding, has issued guidance that these funds may be used to support programs that provide services to victims of elder abuse.²⁶ Figure 4 provides examples of DOJ grant programs that support elder justice and ways in which the funds have been used.

²⁵Generally, guardianships are legal relationships created when a state court grants one person or entity the authority and responsibility to make decisions in the best interest of an incapacitated individual—which can include an older adult—concerning his or her person or property. While many guardians act in the best interest of persons under guardianship, some have been reported to engage in the abuse of older adults. For further discussion, see GAO, *Elder Abuse: The Extent of Abuse by Guardians Is Unknown, but Some Measures Exist to Help Protect Older Adults*, [GAO-17-33](#) (Washington, D.C.: Nov. 16, 2016).

²⁶See Victims of Crime Act of 1984, Pub. L. No. 98-473, 98 Stat. 1837.

Figure 4: Examples of Department of Justice (DOJ) Grant Programs That Support Elder Justice Efforts

	 Office for Victims of Crime	 National Institute of Justice	 Office on Violence Against Women
Example of grant program	Field-Generated Innovations in Addressing Elder Abuse and Financial Exploitation	Research and Evaluation on the Abuse, Neglect and Exploitation of Elderly Individuals	Enhanced Training and Services to End Abuse in Later Life Program
Example of use of grant funds	Recruitment and training of 50 elder justice advocates from district attorneys' offices, law enforcement, and domestic violence prevention services providers to assess and treat abuse victims in Rochester, New York.	Develop abuse screening instruments for elders arriving at emergency rooms, North Carolina.	Train law enforcement, prosecutors, and other professionals to address elder abuse. Provide victim services to victims age 50 and over. Support a coordinated community response to elder abuse.

Source: GAO analysis of DOJ information. | GAO-19-365

DOJ Conducts Limited Planning and Assessment of Its Various Elder Justice Efforts

DOJ has taken some steps to plan for and assess its elder justice efforts, based on officials' statements and as reflected in its October 2018 report to Congress. However, DOJ has not developed or documented goals that articulate the common outcomes it seeks to achieve through its elder justice efforts. In addition, DOJ has not developed or documented outcome measures that track the agency's progress on its overall elder justice efforts.

Goals

Key Terms

Goals explain the common outcomes the program is seeking to achieve.

Output Measures track the direct product or activity delivered by a program.

Outcome Measures track the progress the program is making toward achieving its goals.

Source: Office of Management and Budget Circular No. A-11 (2018). | GAO-19-365

DOJ has developed some goals for its elder justice efforts but these goals lack focus on the outcomes their efforts seek to achieve. DOJ officials stated that DOJ has three goals for its elder justice efforts: (1) to comply with EAPPA; (2) to follow DOJ's strategic plan; and (3) to follow supplemental instructions from the Attorney General and address emergent threats. However, each of these reflects an obligation, or a tasking, rather than a goal that explains the result (outcome or outcomes) that DOJ is trying to achieve and against which its efforts can be measured. For example, while DOJ established certain positions as directed by EAPPA, implementing the requirements outlined in EAPPA is not a goal that articulates a common outcome that the agency is seeking to achieve through its efforts. Likewise, DOJ's strategic plan does not reference elders, or describe an outcome that the agency seeks to achieve with its many elder justice efforts. Finally, DOJ's third stated goal of following the Attorney General's supplemental instructions and addressing emergent threats reflects a responsibility rather than an outcome-oriented goal. An example of an elder justice goal that indicates a desired outcome of DOJ's elder justice efforts could be improving reporting and data collection on the incidence of elder abuse in the United States. Another example of an elder justice goal could be enhancing DOJ's elder justice coordination with state and local officials within each federal district.

Outcome Measures

DOJ has taken some steps to collect data on specific elder justice activities, but generally does not have outcome measures that track the agency's progress on its overall elder justice efforts. For example, DOJ tracks the number of cases that target or predominantly affect older adults and the number of attendees at its training events, as evidenced by DOJ's October 2018 report to Congress. DOJ officials also told us that they surveyed training participants to solicit feedback on the utility of some elder justice trainings. DOJ also tracks the number of elder justice grantees and monitors grantees' compliance with periodic requirements to report on funding status. However, tracking these outputs alone does not provide DOJ with a means to measure overall progress. In particular, efforts to understand the utility of just some out of dozens of trainings does not help DOJ to fully understand the overall benefits its training efforts yielded. Further, tracking grantees' progress in submitting routine reports is not the same as evaluating whether or not grantees' efforts have enhanced elder justice practices or services in the communities in which the grantees operate.

To expand on the earlier example of a possible goal, if one of DOJ's elder justice goals were to enhance elder justice coordination with state and

local officials within each federal district, then DOJ could track its progress toward achieving this goal by measuring the outcome, or yield, from the Elder Justice Coordinators' outreach efforts. DOJ could do this, for example, by annually surveying different categories of state and local officials in each federal district (e.g., law enforcement officers, victim service providers, and prosecutors). Such surveys could measure if state and local officials reported that DOJ's outreach was useful and relevant to their work over time, and results would show DOJ if it had indeed enhanced coordination, or where and with which groups coordination could be improved.

GPRA, as amended and expanded by GPRAMA, creates a framework for articulating unified goals and outcome measures that can provide federal agencies with a clear direction for successful implementation of activities and improve the efficiency and accountability of agencies' efforts.²⁷ Goals explain the purpose and intended results that a program seeks to achieve in its work. Outcome measures that are linked to goals allow a program to track the progress it is making toward achieving its goals. While GPRA and GPRAMA apply to the department or agency level, we have previously reported that their provisions can serve as leading practices at other organizational levels, such as component agencies, offices, programs, and projects.²⁸ Additionally, *Standards for Internal Control in the Federal Government* states that documentation provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel.²⁹

DOJ officials stated that they believe their goals and the ways in which they are measuring impact are generally understood throughout the agency because the DOJ strategic plan discusses the importance of protecting all Americans, prior Attorneys General have made public statements about the importance of elder justice, and Assistant U.S. Attorneys receive annual performance assessments that can touch on

²⁷GPRAMA, Pub. L. No. 111-352, 124 Stat. 3866 (2011), updated GPRA, Pub. L. No. 103-62, 107 Stat. 285 (1993). Also, Office of Management and Budget, Circular No. A-11, Part 6, *Federal Performance Framework: Strategic Planning, Annual Performance Plans and Reports, Priority Goals, Performance Review, Customer Experience, and Program and Project Management*, June 2018),

²⁸See, for example, GAO, *Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation*, [GAO-12-77](#) (Washington, D.C.: Oct. 6, 2011).

²⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sep. 10, 2014).

any related elder justice work they may be doing. While these mechanisms may be relevant, they do not serve as planning and assessment tools. By further developing and documenting goals that articulate common outcomes for its work—and by developing and documenting outcome measures that are linked to its goals, DOJ would have clearer direction for what it plans to achieve and more specific means to assess the effectiveness of its elder justice efforts toward achieving its elder justice goals.

Department of State Assists U.S. Citizens Arrested Abroad, Including Older U.S. Citizens, and DHS Investigates Some Arrests Involving International Criminal Enterprises

Department of State Provides Assistance to U.S. Citizens Arrested Abroad and Maintains Information on the Services It Provides

Emergency and Non-emergency Assistance

According to Department of State policies, one of the most important functions of its consular officers is assisting private U.S. citizens, including older U.S. citizens, who have been arrested abroad. Consular officers and other trained Department of State staff at overseas posts and in Washington, D.C. provide emergency and non-emergency services to U.S. citizens arrested abroad and take actions to ensure that U.S. citizens arrested abroad are treated humanely and fairly. While the Department of State provides services to arrested U.S. citizens abroad, regardless of age, it has recently revised its policies to highlight the potential vulnerability of U.S. citizens over 65 years of age.

The Foreign Affairs Manual contains the Department of State's policies and procedures for carrying out its operations and conveys to agency staff information on carrying out their responsibilities, including providing emergency and non-emergency assistance to U.S. citizens arrested abroad. The Foreign Affairs Manual outlines the Department of State's policies, guidance, and procedures in the area of assistance to arrested U.S. citizens or nationals abroad, in accordance with relevant U.S. laws and regulations, as well as the Vienna Convention on Consular Relations and other international treaties.³⁰ These services may include: visiting the place of individual in detention; contacting family, friends, and other parties on the prisoner's behalf; assisting with the transfer of funds using a special trust account; and providing a list of local attorneys, medical and dietary assistance, and other consular services. See table 1 below for additional details on these services.³¹

³⁰Vienna Convention on Consular Relations art. 36, April 24, 1963, 500 U.N.T.S. 95; 23 U.S.T. 3227 provides for contact and communication between arrested foreign nationals, consular officials, and host nation officials.

³¹The Bureau of Consular Affairs maintains a brief summary of the services it can provide to U.S. citizens arrested abroad as well as other information related to the safety and security of U.S. citizens traveling and living abroad on Department of State's website. See appendix IV for descriptions of selected Department of State public outreach efforts for older U.S. citizens traveling, living, or arrested abroad.

Table 1: Department of State Consular Services for U.S. Citizens Arrested Abroad^a

Service	Description and related Department of State activities
Visits to the detainee in the place of detention	Officials obtain initial access (by telephone if necessary) and conduct follow-up visits with arrested U.S. citizens to ascertain the safety and security of the individual, provide information on local attorneys, facilitate contact with family and friends, conduct consular and administrative tasks, seek Privacy Act consent to facilitate sharing information on behalf of or about the prisoner, and deliver personal items, among other functions. ^b
Contact family, friends, clergy, and employer, in accordance with the Privacy Act	With the arrested U.S. citizen's consent, officials contact family, friends, clergy, and employers regarding the citizen's arrest. Officials may arrange for clergy to visit the arrested U.S. citizen.
Lists of local attorneys	Each overseas post maintains and can provide a list of attorneys, in many cases by specialty, and including for types of cases and common types of arrests involving U.S. citizens in that country.
Emergency medical and dietary assistance	Department of State provides emergency medical assistance on a reimbursable basis and dietary supplement assistance where local conditions and local diets do not provide the minimum requirements for adequate health.
Trust account	In the absence of or inability to use private money transfers, Department of State facilitates the transfer of money to arrested U.S. citizens in financial need to or through trust accounts maintained by Department of State.
Routine consular services	As necessary, Department of State issues new citizenship documentation to eligible applicants, oversees federal benefit payments, and notarizes documents.

Source: GAO analysis of Department of State information. | GAO-19-365

^aDepartment of State provides consular services pursuant to its policies and procedures as laid out in its Foreign Affairs Manual which are based in part on international and U.S. law. This includes The Vienna Convention on Consular Relations, may include bilateral treaties between the United States and the host government, as well as U.S. statutes and regulations, such as: 22 U.S.C. §§ 1731, 2671(b)(2)(A)(ii), 2671(b)(2)(B), 4802(b), 2715, 2715a; 22 C.F.R. §§ 71.1, 71.6.

^bThe Privacy Act of 1974 limits what written, oral, and electronic information federal agencies, including Department of State, can share about U.S. citizens and lawful permanent residents. With some exceptions, agencies must seek and obtain consent before disclosing information regarding an individual with family, friends, and other U.S. government agencies or private entities. The Privacy Act of 1974, Pub. L. No. 93-579, § 3 (1974), codified as amended at 5 U.S.C. § 552a.

In cases in which the arresting country or local authorities may not have complied with international legal obligations governing the arrest of foreign nationals, the Department of State may protest the actions of the arresting state or authorities.³² Common grounds for protest include: denied or delayed consular notification and access to the arrested U.S.

³²A protest is a formal expression or statement of objection or disapproval of action by host country authorities with respect to a detained, arrested, or imprisoned U.S. citizen.

citizen, prisoner abuse or mistreatment, and situations where due process concerns arise.³³

According to the Foreign Affairs Manual and Bureau of Consular Affairs officials we interviewed, the provision of emergency and non-emergency services by consular officers can vary based on the arresting country. For instance, in some countries consular officers may not be able to immediately contact or visit with U.S. citizens arrested abroad because of the remoteness of the place of detention, the process of the foreign government, and the locations of the nearest U.S. embassy or consulate. In other cases, Consular Affairs officials stated that consular officers may prioritize the provision of specific services over others depending on the status of diplomatic relations or the existence of applicable bilateral or multilateral agreements between the U.S. government and the arresting country.

Department of State policies also highlight “special arrest cases” that involve circumstances or prisoners that may require additional attention because they involve U.S. citizens whose conditions or behavior make them special cases. According to the Foreign Affairs Manual, special arrest cases include prisoners who are: critically or terminally ill, diagnosed with HIV or AIDS, pregnant, mentally incapacitated, mentally ill, suicidal, on hunger strikes, associated with the military, or minors. In response to these cases, consular officers may develop a plan or strategy to intercede on behalf of the arrested U.S. citizen.

According to the Foreign Affairs Manual, the Department of State normally does not intercede in foreign judicial systems on behalf of private U.S. citizens arrested abroad, including older U.S. citizens, except in cases of prisoner mistreatment or concerns about a lack of due process under local law. U.S. citizens abroad are subject to the local laws of the country where they are traveling or living, according to the Department of State. Moreover, even when there may be a valid reason to believe that a U.S. citizen has been arrested or charged unjustly, the Foreign Affairs Manual instructs consular officers to handle such cases as arrest cases—rather than, for instance, treating the arrested U.S. citizen as a victim of a crime—and to notify management so they may consider additional actions.

³³With additional approval and coordination, consular officers may also request clemency, pardon, amnesty, or release of an arrested U.S. citizen for compelling reasons, for instance on humanitarian grounds.

Until recently, the Department of State did not highlight older adults as being among special arrest cases. However, in December 2018, the Department of State published a revision to the Foreign Affairs Manual that added “elderly prisoners” to the list of special arrest cases. The revision states that protections for arrested U.S. citizens over the age of 65 are even more critical than other cases because older citizens who have been arrested may be extremely vulnerable to medical problems, abuse, and lack of specialized medical treatment for elderly prisoners.³⁴ It also warns that elder prisoners may be victims of scams or abuse, and may also unwittingly participate in criminal activities. At the same time, the guidance reiterates that consular officers should continue to follow all guidance regarding requests for clemency, pardon, and release of prisoners on humanitarian grounds or other reasons and that legal representation is the responsibility of local attorneys, not consular officers.

Information About Services Provided

Department of State maintains some information about the emergency and non-emergency consular services it provides to U.S. citizens arrested abroad, including older U.S. citizens. Consular officers use the Department of State’s case management system, the American Citizen Services (ACS) system, to report information to the Bureau of Consular Affairs’ Office of Overseas Citizens Services regarding the condition of and assistance provided to U.S. citizens arrested abroad.³⁵

Consular Affairs staff at U.S. embassies and consulates and in Washington, D.C. use the ACS system to maintain and organize information regarding arrest cases, and to provide services to arrested U.S. citizens. The ACS system captures a wide range of arrest-related information, and consular officers must report essential elements of the arrest case, such as date of notification, initial and subsequent visits with the prisoner, treatment at the place of detention, and trial developments.³⁶

³⁴Although the Department of State guidance discusses an “elderly prisoners” as being arrested U.S. citizens over the age of 65, for the purposes of this report we define “older U.S. citizens” as adults age 60 or older with U.S. citizenship status.

³⁵In addition to services provided to U.S. citizens arrested abroad, the ACS system contains information about other categories of emergency and non-emergency services, for example, services provided in the cases of deaths of U.S. citizens abroad as well as the routine issuance of reports of births and passports.

³⁶We reviewed aggregate ACS system information but found that it was not reliable for determining the number of arrests of older U.S. citizens abroad. We have new work planned to examine the ACS system in greater detail.

While the ACS system can be used to capture other arrest case information, Consular Affairs officials stated that consular staff at U.S. embassies and consulates may prioritize the collection and reporting of information that supports a citizen's safety, well-being, or access to justice to ensure that the Department of State provides the most appropriate assistance.

According to Consular Affairs officials, U.S. embassies and consulates may not learn about all arrests of U.S. citizens abroad. In some cases, consular notification is denied or delayed in violation of the arresting country's legal obligations, according to officials. In other cases, Consular Affairs officials stated that consular officers may not be notified if the arrested U.S. citizen is also a national of the country where the arrest occurs. In such instance, the arresting country does not have a legal obligation to offer or provide consular notification and access under the Vienna Convention on Consular Relations, according to Consular Affairs officials. Additionally, under the Vienna Convention a country may ask an arrested person if he or she wishes for the U.S. government to be informed of the arrest and the U.S. citizen may decline, according to officials. Consular Affairs officials also stated that consular officers may not be informed of cases in which a U.S. citizen is arrested for a short period of time but the situation is quickly resolved.

Consular Affairs officials noted that consular officers may report some information related to the circumstances of and reasons for arrests of U.S. citizens abroad but that consular officers are not required to systematically collect or report this information. For example, consular officers can record a formal charge brought against U.S. citizens arrested abroad by choosing from a pre-populated list in ACS, for example a drugs or smuggling charge, but these are broad categories that do not always reflect the alleged criminal activity. For instance, Consular Affairs officials stated that foreign countries sometimes charge U.S. citizens arrested abroad with an immigration violation when the arrested individual is believed by the foreign government to have been involved with criminal activity.

Consular officers may also use the ACS system's activity log to enter details into the record regarding the handling of the case and the assistance being provided, among other information. While some of the information collected from the arrested U.S. citizen, family and friends, and arresting authorities is anecdotal, Consular Affairs officials stated that the log may provide context for understanding the circumstances of and reasons for an arrest, for instance whether an arrested citizen may have

been scammed or had previously participated in scams operated by international criminal enterprises. In general, however, the officials told us that Department of State does not verify this type of information because it is not relevant to providing services or ensuring fair and humane treatment for U.S. citizens arrested abroad.

DHS Investigates the Involvement of International Criminal Enterprises in Some Arrests of U.S. Citizens Abroad

As part of its efforts to identify and dismantle transnational criminal networks, DHS identifies, investigates, and disrupts the movement of illicit contraband by international criminal enterprises. CBP and ICE's Homeland Security Investigations have observed that international criminal enterprises recruit unsuspecting drug smugglers using various schemes. The schemes have included inheritance, business opportunity, and romance scams that promise victims money, travel, and romantic relationships. According to a DHS press release, as part of the scams, unsuspecting smugglers typically accept airline travel to multiple foreign countries to meet with alleged attorneys and business partners, and are asked to carry seemingly innocuous items during portions of the travel. These items may conceal illicit contraband, including drugs. In some cases, international criminal enterprises have used U.S. citizens, including older U.S. citizens, as unsuspecting drug smugglers, and some of those citizens have been arrested abroad as a result.³⁷

According to CBP officials, one such effort to identify, investigate, and disrupt the use of unsuspecting smugglers of contraband by international criminal enterprises began in 2013. CBP referred to this effort collectively as "Operation Cocoon" after DHS officials noticed open source information about older U.S. citizens who were tricked into smuggling drugs and subsequently arrested abroad.³⁸ CBP officials stated that while Operation Cocoon does not focus specifically on older U.S. victims, international criminal enterprises often target older U.S. citizens.

³⁷ *International Drug Smuggling Scams Targeting Seniors Before S. Special Comm. on Aging*, 114th Cong. (2016) (statement of Alan Scott Brown, Acting Assistant Dir. for Investigative Programs, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *DHS officials issue warning about scams targeting senior citizens to unknowingly act as international drug smugglers* (Washington, D.C.: Feb. 10, 2016).

³⁸ CBP officials described open source information to be publicly available information such as news reports.

DHS officials stated that they may learn about the targeting of U.S. citizens, including older U.S. citizens, by international criminal enterprises and U.S. citizens arrested abroad for smuggling drugs from a number of sources. CBP's National Targeting Center may identify suspicious travel patterns and potentially at-risk travelers, including older U.S. citizens, based on information from a variety of sources and outreach into the activities of international criminal enterprises.³⁹ Additionally, other investigative agencies, such as DOJ's Drug Enforcement Agency and FBI—may share information regarding suspicious activity reported to these agencies by foreign government partners.

CBP coordinates with other U.S. and foreign law enforcement agencies to collect information about related encounters and arrests. In cases in which CBP has learned that U.S. citizens were arrested abroad for drug smuggling, other federal law enforcement agencies have conducted follow-up activities. For instance, ICE officers have interviewed arrested U.S. citizens to determine whether they were complicit in the drug smuggling or tricked into participating. In one recent case, the Department of State's Diplomatic Security Service officials stated that they followed up on the arrest of multiple U.S. citizens abroad for alleged drug smuggling and provided information to the National Targeting Center, including photographs of the arrested U.S. citizens and information about the drugs that were seized.

Conclusions

Researchers estimate that as many as 1 in 10 older adults in the United States—age 60 or older—experience abuse, although elder abuse is generally underreported. DOJ has undertaken several new efforts in response to EAPPA and on its own accord to address this issue, but has not developed or documented goals and outcome measures to guide and assess its elder justice efforts. Developing and documenting goals that explain the common outcomes of its elder justice efforts and outcome measures that track its progress against elder justice goals would provide DOJ with clear direction for its efforts and a better means to assess the results of its elder justice efforts.

³⁹The mission of CBP's National Targeting Center is to collaborate with federal, state, local and international partners to effectively target, screen and interdict outbound passengers and cargo across all international modes of transportation that pose a threat to national security or public safety, as well as facilitate lawful trade and travel.

Recommendations for Executive Action

We are making the following two recommendations to DOJ:

The Attorney General should develop and document goals that explain the common outcomes DOJ seeks to achieve through its elder justice efforts. (Recommendation 1)

The Attorney General should develop and document outcome measures to track the progress the agency is making toward achieving its elder justice goals. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this product to DOJ, the Department of State, and DHS for comment. DOJ provided comments, which are reproduced in appendix V. DOJ also provided technical comments, which we incorporated as appropriate. The Department of State and DHS both reported that they had no comments.

In its comments, DOJ did not explicitly state whether or not it concurred with the two recommendations we directed to the department, but stated that it is taking our recommendations under serious review. Specifically, DOJ stated that it plans to form a subcommittee within its Elder Justice Working Group to consider the development or clarification of goals and the development of outcome measures. These actions should address the intent of our recommendations if the subcommittee develops and documents goals that explain the common outcomes DOJ seeks to achieve through its elder justice efforts, and develops outcome measures to track DOJ's progress in achieving these goals.

In its comments, DOJ reaffirmed that its elder justice efforts have three goals—to comply with the Elder Abuse Prevention and Prosecution Act , to follow DOJ's strategic plan and supplemental instructions from the Attorney General, and to address emergent threats—but it disagreed with our statement that these reflect obligations instead of goals. DOJ also stated that it can be difficult to set goals and outcome measures related to criminal and civil law enforcement and prosecution and that it must remain nimble to respond to changing conditions. We continue to assert that DOJ's aforementioned goals do not articulate the outcome or outcomes that it seeks to achieve in its work. We acknowledge the challenges DOJ has reported but maintain that setting goals that focus on outcomes, and outcome measures that link to these goals, will not preclude DOJ from responding to changing conditions, including adjusting its goals and measures as necessary. As described in our report, setting goals that focus on outcomes, and measures that track the progress the

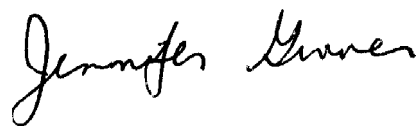
agency is making toward achieving its goals, can help DOJ ensure the efficiency and accountability of its elder justice efforts.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, the Secretary of the Department of State, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov or Jenny Grover at (202) 512-7141 or groverj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VI.



Gretta L. Goodwin, Director
Homeland Security and Justice Issues



Jenny Grover, Director
International Affairs and Trade Issues

List of Committees

The Honorable James E. Risch
Chair
The Honorable Robert Menendez
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Lindsey Graham
Chair
The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Susan Collins
Chair
The Honorable Bob Casey
Ranking Member
Special Committee on Aging
United States Senate

The Honorable Eliot L. Engel
Chair
The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Jerrold Nadler
Chair
The Honorable Doug Collins
Ranking Member
Committee on the Judiciary
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report examines (1) the ways the Department of Justice (DOJ) works to address crimes against older adults, including exploitation by international criminal enterprises, and to what extent DOJ is planning for and assessing its efforts; and (2) how the Department of State and Department of Homeland Security address the arrest of older U.S. citizens abroad, including arrests involving international criminal enterprises.¹

To understand the ways DOJ works to address crimes against older adults, including exploitation by international criminal enterprises, we took a number of steps. For the purposes of our work, we first defined an “older adult” as any person age 60 or older residing in the United States or its territories. Next, we defined elder justice efforts as those that serve to prevent, detect, treat, understand, intervene in and, where appropriate, prosecute elder abuse, neglect and exploitation.² Operating with these terms, we then reviewed key DOJ documents, including the DOJ Strategic Plans for Fiscal Years 2014-2018 and 2018-2022, and the Justice Manual (formerly referred to as the United States Attorneys’ Manual). We also reviewed internal and publically-available DOJ documents related to elder justice, such as training presentations and webinars, as well as press releases about DOJ elder justice efforts and DOJ’s Elder Justice Initiative website. We next identified and examined the scope and purpose areas of the 10 DOJ grant programs that could be used to support elder justice activities. Further, we interviewed officials from various DOJ components that work on elder justice, such as the Office of the Deputy Attorney General, including DOJ’s Elder Justice Coordinator, and the Executive Office for United States Attorneys. We also interviewed a nongeneralizable sample of stakeholders from organizations that seek to address elder abuse and asked questions about DOJ’s efforts to address crimes against older adults. We identified these stakeholders by conducting background research and by asking those stakeholders who we interviewed to recommend additional stakeholders with whom we should speak.

We also interviewed a nongeneralizable sample of DOJ’s Elder Justice Coordinators—Assistant U.S. Attorneys selected to focus on cases related to elder abuse—to learn more about their roles and accomplishments. Specifically, we interviewed 12 Elder Justice

¹See Pub. L. No. 115-70, § 502, 131 Stat. 1208 (2017).

²See 42 U.S.C. § 1397j(5), (6).

Coordinators from U.S. Attorneys' Offices in five states: California, Florida, Maine, Minnesota, and Washington. We selected these states, primarily, based on recommendations from the elder justice stakeholders we interviewed, and we also took into consideration the percentage of individuals age 60 and above residing in the state, as well as geographic diversity.³ We further requested that each Elder Justice Coordinator we interviewed provide three state or local officials with whom they have the most substantive partnerships to address elder abuse. We did not define "most substantive partnerships" explicitly in our request, and instead asked that each Elder Justice Coordinator use his or her judgment to provide contacts who were best positioned to discuss elder justice issues and the ways in which the state or local officials work with DOJ. We subsequently held group interviews by state with a total of 17 state or local officials regarding their work with DOJ on elder justice or their use of DOJ elder justice resources.

Further, we interviewed officials from the Federal Bureau of Investigation (FBI), including FBI headquarters' officials and agents from two FBI field offices—Los Angeles and Miami—to discuss the FBI's efforts to address crimes against older victims.⁴ We also interviewed the unit chief from the FBI's Internet Crime Complaint Center to discuss available data about elder abuse in the United States. Although complaint center data include self-reported incidents from individuals who were at least 60 years of age, individuals submitting reports to the system are not required to include their age or the age of the victim of the crime they are reporting. As such, we determined that the data related to individuals age 60 and above were not reliable for the purposes of this report.

To address the second part of our first question—the extent to which DOJ is planning for and assessing its elder justice-related efforts—we analyzed documentary and testimonial evidence about the steps DOJ had underway, and compared DOJ's steps to internal control standards, which

³Every selected state was recommended by at least one elder justice stakeholder we interviewed. The percentage of individuals age 60 and above by state was calculated using the most recent publically available data (July 2017) from the U.S. Census Bureau. Geographic diversity was considered in addition to stakeholder recommendations and percentage of older adults residing in the state.

⁴We chose to interview officials in these FBI field offices based upon statements from DOJ officials as well as in DOJ press releases that these field offices were involved in the February 2018 DOJ Elder Fraud Sweep, which included criminal charges against 200 defendants.

include principles related to ensuring accountability through documentation.⁵ We also compared DOJ's steps to leading practices based on the Government Performance and Results Act of 1993 (GPRA) and the GPRA Modernization Act of 2010 (GPRAMA), which create a framework of goal setting and performance management for federal agencies.⁶ While GPRA and GPRAMA apply to the department or agency level, we have previously reported that their provisions can serve as leading practices at other organizational levels, such as component agencies, offices, programs, and projects.⁷

To address our second question, we also took several steps. First, we defined "older U.S. citizens" as adults age 60 or older with U.S. citizenship status—regardless of whether they were living in the United States or abroad. We then defined international criminal enterprises as transnational organized crime groups that are self-perpetuating associations of individuals who operate, wholly or in part, by illegal means and irrespective of geography. We then reviewed the Department of State's policies and guidance, specifically the Foreign Affairs Manual chapter dealing with the arrest of U.S. Citizens abroad, as well as the chapter on arrest cases in the user manual for the American Citizen Services system, Department of State's case management system. In addition, we reviewed relevant Department of State websites addressing "Considerations for Older Travelers," "International Financial Scams," "Arrest and Detention of a U.S. Citizen Abroad," and resources available on those sites, including a "Checklist for Older Travelers." We also interviewed Department of State officials from the Bureau of Consular Affairs, including officials from the Office of Overseas Citizens Services, and the Bureau of Diplomatic Security. Additionally, we reviewed Department of Homeland Security (DHS) information related to their investigations and operations, such as Congressional testimonies of Immigration and Customs Enforcement officials. Further, to learn more about their role related to arrests abroad and the role of international criminal enterprises, we interviewed DHS officials from U.S. Customs and Border Protection and Immigration and Customs Enforcement, including

⁵GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

⁶GPRAMA, Pub. L. No. 111-352, 124 Stat. 3866 (2011), updated GPRA, Pub. L. No. 103-62, 107 Stat. 285 (1993).

⁷See, for example, GAO, *Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation*, [GAO-12-77](#) (Washington, D.C.: Oct. 6, 2011).

officials at the National Targeting Center and Homeland Security
Investigations.

Appendix II: Provisions of the Elder Abuse Prevention and Prosecution Act, Pertaining to the Department of Justice

Table 2: Provisions of the Elder Abuse Prevention and Prosecution Act, Pub. L. No. 115-70, 131 Stat. 1208, Pertaining to the Department of Justice

Section of the Act	Summary	Specific Requirements	DOJ Official and/or Component Identified
Tit. I, § 101(a)(1)	Designate at least one Assistant U.S. Attorney in each federal district to serve as an Elder Justice Coordinator	The Attorney General shall designate in each Federal judicial district not less than one Assistant United States Attorney to serve as the Elder Justice Coordinator for the district, who, in addition to any other responsibilities, shall be responsible for— <ul style="list-style-type: none"> A. serving as the legal counsel for the Federal judicial district on matters relating to elder abuse; B. prosecuting, or assisting in the prosecution of, elder abuse cases; C. conducting public outreach and awareness activities relating to elder abuse; and D. ensuring the collection of data required to be collected under section 202. 	Attorney General
Tit. I, § 101(a)(2)	Ensure the implementation of an elder abuse training program for Federal Bureau of Investigation agents	The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes relating to elder abuse, ensure the implementation of a regular and comprehensive training program to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to elder abuse, which shall include— <ul style="list-style-type: none"> A. specialized strategies for communicating with and assisting elder abuse victims; and B. relevant forensic training relating to elder abuse. 	Attorney General, and the Director of the Federal Bureau of Investigation
Tit. I, § 101(a)(3)	Establish an elder abuse resource group to assist prosecutors in pursuing elder abuse cases.	The Attorney General, through the Executive Office for United States Attorneys, shall ensure the operation of a resource group to facilitate the sharing of knowledge, experience, sample pleadings and other case documents, training materials, and any other resources to assist prosecutors throughout the United States in pursuing cases relating to elder abuse.	Attorney General, and the Executive Office for United States Attorneys
Tit. I, § 101(a)(4)	Establish a working group or subcommittee to the Attorney General's Advisory Committee to advise the Attorney General on elder abuse policies	Not later than 60 days after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Executive Office for United States Attorneys, shall establish a subcommittee or working group to the Attorney General's Advisory Committee of United States Attorneys, as established under section 0.10 of title 28, Code of Federal Regulations, or any successor thereto, for the purposes of advising the Attorney General on policies of the Department of Justice relating to elder abuse.	Attorney General, and the Director of the Executive Office for United States Attorneys

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Tit. I, § 101(b)	Designate an Elder Justice Coordinator for the department	<p>Not later than 60 days after the date of enactment of this Act, the Attorney General shall designate an Elder Justice Coordinator within the Department of Justice who, in addition to any other responsibilities, shall be responsible for—</p> <ol style="list-style-type: none"> 1. coordinating and supporting the law enforcement efforts and policy activities for the Department of Justice on elder justice issues; 2. evaluating training models to determine best practices <p>and creating or compiling and making publicly available replication guides and training materials for law enforcement officers, prosecutors, judges, emergency responders, individuals working in victim services, adult protective services, social services, and public safety, medical personnel, mental health personnel, financial services personnel, and any other individuals whose work may bring them in contact with elder abuse regarding how to—</p> <ol style="list-style-type: none"> A. conduct investigations in elder abuse cases; B. address evidentiary issues and other legal issues; and C. appropriately assess, respond to, and interact with victims and witnesses in elder abuse cases, including in administrative, civil, and criminal judicial proceedings; and 3. carrying out such other duties as the Attorney General determines necessary in connection with enhancing the understanding, prevention, and detection of, and response to, elder abuse. 	Attorney General
Tit. I, § 101(c)(2)	Submit an annual report on specific enforcement actions taken by DOJ and FTC involving or targeting elders	<p>Not later than 1 year after the date of enactment of this Act, and once every year thereafter, the Chairman of the Federal Trade Commission and the Attorney General shall each submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report detailing the enforcement actions taken by the Federal Trade Commission and the Department of Justice, respectively, over the preceding year in each case in which not less than one victim was an elder or that involved a financial scheme or scam that was either targeted directly toward or largely affected elders, including—</p> <ol style="list-style-type: none"> A. the name of the district where the case originated; B. the style of the case, including the case name and number; C. a description of the scheme or scam; and D. the outcome of the case. 	Attorney General, and the Chairman of the Federal Trade Commission

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Tit. II, § 201(a)- (b)	Develop and publish best practices for data collection on elder abuse	<p>The Attorney General, in consultation with Federal, State, and local law enforcement agencies, shall—</p> <ol style="list-style-type: none"> 1. establish best practices for data collection to focus on elder abuse; and 2. provide technical assistance to State, local, and tribal governments in adopting the best practices established under paragraph (1). <p>(b) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall publish the best practices established under subsection (a)(1) on the website of the Department of Justice in a publicly accessible manner.</p>	Attorney General, in consultation with Federal, State, and local law enforcement agencies
Tit. II, § 202(a)- (b)	Collect and publish data on federal law enforcement actions relating to elder abuse or targeting elders	<p>The Attorney General, in consultation with the Secretary of Health and Human Services shall, on an annual basis—</p> <ol style="list-style-type: none"> 1. collect from Federal law enforcement agencies, other agencies as appropriate, and Federal prosecutors' offices statistical data related to elder abuse cases, including cases or investigations where one or more victims were elders, or the case or investigation involved a financial scheme or scam that was either targeted directly toward or largely affected elders; and 2. publish on the website of the Department of Justice in a publicly accessible manner— <ol style="list-style-type: none"> A. a summary of the data collected under paragraph (1); and B. recommendations for collecting additional data relating to elder abuse, including recommendations for ways to improve data reporting across Federal, State, and local agencies. <p>(b) REQUIREMENT.—The data collected under subsection (a)(1) shall include—</p> <ol style="list-style-type: none"> 1. the total number of investigations initiated by Federal law enforcement agencies, other agencies as appropriate, and Federal prosecutors' offices related to elder abuse; 2. the total number and types of elder abuse cases filed in Federal courts; and 3. for each case described in paragraph (2)— (A) the name of the district where the case originated; <ol style="list-style-type: none"> C. the style of the case, including the case name and number; D. a description of the act or acts giving rise to the elder abuse; E. in the case of a scheme or scam, a description of such scheme or scam giving rise to the elder abuse; F. information about each alleged perpetrator of the elder abuse; and G. the outcome of the case. 	Attorney General, in consultation with the Secretary of Health and Human Services

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Tit. III, § 302(a)-(b)	Submit a report on extent of compensation for victims of elder abuse	<p>Not later than 1 year after the date on which the collection of statistical data under section 202(a)(1) begins and once each year thereafter, the Director of the Office for Victims of Crime shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that addresses, to the extent data are available, the nature, extent, and amount of funding under the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) for victims of crime who are elders.</p> <p>(b) CONTENTS.—The report required under subsection (a) shall include—</p> <ol style="list-style-type: none"> 1. an analysis of victims' assistance, victims' compensation, and discretionary grants under which elder abuse victims (including elder victims of financial abuse, financial exploitation, and fraud) received assistance; and 2. recommendations for improving services for victims of elder abuse. 	Director of the Office for Victims of Crime
Tit. IV, § 403	Create and disseminate materials to states and localities to assist with the handling of elder abuse cases	<p>The Attorney General, in consultation with the Secretary of Health and Human Services and in coordination with the Elder Justice Coordinating Council (established under section 2021 of the Social Security Act (42 U.S.C. 1397k)), shall create, compile, evaluate, and disseminate materials and information, and provide the necessary training and technical assistance, to assist States and units of local government in—</p> <ol style="list-style-type: none"> 1. investigating, prosecuting, pursuing, preventing, understanding, and mitigating the impact of— <ol style="list-style-type: none"> A. physical, sexual, and psychological abuse of elders; B. exploitation of elders, including financial abuse and scams targeting elders; and C. neglect of elders; and 2. assessing, addressing, and mitigating the physical and psychological trauma to victims of elder abuse. 	Attorney General, in consultation with the Secretary of Health and Human Services, in coordination with the Elder Justice Coordinating Council
Tit. V, § 503	Submit a report on efforts to conduct outreach to state and local law enforcement regarding collaborating with the federal government to address elder abuse	The Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on efforts by the Department of Justice to conduct outreach to State and local law enforcement agencies on the process for collaborating with the Federal Government for the purpose of investigating and prosecuting interstate and international elder financial exploitation cases.	Attorney General
Tit. V, § 504	Publish model power of attorney legislation	The Attorney General shall publish model power of attorney legislation for the purpose of preventing elder abuse.	Attorney General
Tit. V, § 505	Publish best practices for improving guardianship proceedings and related model legislation	The Attorney General shall publish best practices for improving guardianship proceedings and model legislation relating to guardianship proceedings for the purpose of preventing elder abuse.	Attorney General

Source: GAO analysis of Pub. L. No. 115-70, 131 Stat. 1208 (2017). | GAO-19-365

Appendix III: Department of Justice Elder Justice Public Outreach Efforts

Table 3: Selected Department of Justice (DOJ) Elder Justice Public Outreach Efforts

Topic/type of Information provided	Description	Website
Information for older adults, families, and caregivers on the forms and warning signs of abuse	DOJ’s Elder Justice Initiative’s (EJI) website provides information on elder abuse—physical, psychological, financial, sexual, and neglect and abandonment—detailing the various forms of abuse, stories, and warning signs. The site also provides ways to find help or report abuse, including hotlines, Adult Protective Services, and state resources.	https://www.justice.gov/elderjustice/victims-families-caregivers
Materials for states and localities to conduct public outreach in their communities	EJI’s website provides links to multiple community outreach efforts and resources, including webinars, elder abuse and financial exploitation pamphlets, educational presentations, and tools for sharing EJI resources.	https://www.justice.gov/elderjustice/outreach
Information on common financial scams and tips to avoid becoming a victim	EJI’s website provides information on some of the most common scams affecting older Americans in addition to links to presentations and educational programs on how to recognize financial exploitation and scams and how to avoid becoming a victim. The site also links to the Elder Abuse Resource Roadmap—Financial (see below).	https://www.justice.gov/elderjustice/financial-exploitation
Assistance in identifying which federal agency to contact to report financial exploitation	EJI’s website includes an Elder Abuse Resource Roadmap—Financial which takes users through a series of questions regarding elder financial exploitation that relate to who has caused the financial loss and what was lost or stolen. The site ultimately provides information regarding what federal agency is responsible for investigating specific reports and where users can file complaints.	https://www.justice.gov/elderjustice/roadmap

Source: GAO analysis of DOJ information. | GAO-19-365

Note: The websites listed in this table were active at the time of our audit work.

Appendix IV: Department of State Public Outreach Efforts for Older U.S. Citizens Traveling, Living, or Arrested Abroad

Table 4: Selected Department of State Public Outreach Efforts for Older U.S. Citizens Traveling, Living, or Arrested Abroad

Topic/type of Information provided	Description	Website
Information on travel conditions in foreign countries	Department of State’s Bureau of Consular Affairs’ website informs the public of conditions abroad that may affect their safety and security through country specific information, travel alerts, and travel advisories.	https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages.html
Information on travel conditions in foreign countries for older adults	Department of State’s website provides information for older travelers to ensure they are prepared to travel abroad. The website links to other Department of State resources, such as information on scams and preparation for emergencies. It also links to a “Checklist for Older Travelers” that recommends how older travelers can learn about overseas destinations, ensure they have valid travel documents, stay connected with the Department of State and other emergency contacts, and plan for medical and health-related problems.	https://travel.state.gov/content/travel/en/international-travel/before-you-go/travelers-with-special-considerations/info-older-travelers.html
Information on what Department of State can do in an emergency abroad	Department of State’s website provides links to information on the “Arrest or Detention of a U.S. Citizen Abroad” and “International Financial Scams.” The website details, for example, how to avoid being arrested overseas, what to do if arrested, and the services that the Department of State can provide. The website also provides information, for example, on scams targeting U.S. citizens at home and abroad, tips to avoid being scammed, and what to do if victimized.	https://travel.state.gov/content/travel/en/international-travel/emergencies.html
Information through social media targeting older adult travelers and their adult children	In fall 2018, Department of State posted messages on Twitter and Facebook identifying ways to help older adult travelers avoid being scammed.	N/A
Smart Traveler Enrollment Program (STEP)	The Smart Traveler Enrollment Program is a free service that allows U.S. citizens traveling or living abroad to receive the latest security updates from the nearest U.S. embassy or consulate.	https://step.state.gov/step/

Source: GAO analysis of Department of State information. | GAO-19-365

Note: The websites listed in this table were active at the time of our audit work.

Appendix V: Comments from the U.S. Department of Justice



U.S. Department of Justice
Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

May 16, 2019

Gretta L. Goodwin
Director
Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Jenny Grover
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Goodwin and Ms. Grover:

Thank you for the opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, "*Elder Justice: Goals and Outcome Measures Would Provide DOJ with Clear Direction and a Means to Assess its Efforts.*" (GAO-19-365) (The "Report"). The Department of Justice (the "Department" or "DOJ") appreciates the work of the GAO and has carefully considered the findings and recommendations presented in GAO's draft report.

As an initial matter, the Department appreciates GAO's thorough review, which reflects many of the significant and meaningful steps the Department has taken to advance its elder justice efforts, particularly since the passage of Elder Abuse Prevention and Prosecution Act ("EAPPA") just a couple of years ago. As you know, many of those steps are spelled out in the October 2018 Attorney General's Annual Report to Congress on Department of Justice Activities to Combat Elder Abuse and Financial Exploitation, which is cited by GAO in the Report.

The Department recognizes elder justice as a significant priority, both in terms of enforcement and prevention. Just from October 1, 2017 to June 30, 2018, the reporting period for the Department's EAPPA report, the Department participated in enforcement actions in over 250 criminal and civil cases that targeted or disproportionately affected seniors, resulting in over \$220 million in restitution orders for victims. Additionally, the Department expended considerable efforts involving both internal and external training, including by either hosting or participating in nearly 200 trainings related to elder justice, ultimately reaching over 200,000 participants.

Ms. Gretta Goodwin and Ms. Jenny Grover

Most recently, in March 2019, the Department announced the largest coordinated sweep of elder fraud cases in history, surpassing the significant results from the prior year's sweep. The March 2019 sweep involved more than 260 defendants from around the globe who victimized more than two million Americans, most of them elderly. In connection with the announcement, Attorney General Barr reiterated that, "[t]he Trump administration has placed a renewed focus on prosecuting those who prey on the elderly..." Additionally, in November 2018, the Departments of Justice and Agriculture hosted the first Rural and Tribal Elder Justice Summit in Des Moines, Iowa. The Summit focused on supporting the efforts of elder justice professionals to combat elder abuse and financial exploitation in rural and tribal communities. These are but a few examples of the significant work the Department is doing to combat criminal schemes that impact our Nation's seniors.

While we are proud of our work and believe it is making a real difference in the lives of our nation's seniors, we also understand that there is always room for improvement. That is why we are taking GAO's recommendations under serious review as we look for ways that we can improve upon our many successes. To that end, the Department acknowledges that clear goals are important, as are metrics for measuring outcomes and the effectiveness of its efforts, while also recognizing inherent difficulties combatting elder abuse. This includes varying definitions of what age defines someone as an "elder," the rise of transnational scams that target and/or affect elderly victims, and the fact that many such scams also target and/or impact victims of all ages. With that in mind, we respond to each of GAO's recommendations, in turn.

Recommendation 1: The Attorney General should develop and document goals that explain the common outcomes DOJ seeks to achieve through its elder justice efforts.

Response: As noted in the Report, the Department has three goals for its elder justice efforts: (1) to comply with EAPPA; (2) to follow DOJ's strategic plan; and (3) to follow supplemental instructions from the Attorney General and to address emergent threats. While we respectfully disagree with GAO's suggestion that "each of these reflects an obligation, or a tasking, rather than a goal," we do believe that the Department can work to better articulate its goals in a way that might improve the use of outcome measures that track progress toward achieving such goals. Notably, however, it can be difficult to enact goals when it comes to criminal and civil enforcement.

As the Department previously explained to GAO, the Department does not set prosecution goals, as such goals could be misinterpreted as a form of bounty hunting, and because every case presents unique challenges (such as the need for foreign evidence, for example) that affect the time it takes to investigate, to charge, and to bring a matter to conclusion. Moreover, the Department must remain nimble in terms of its goals given how fluid emerging threats can be – for example, grandparent scams may be an area of particular concern today, but a new fraud may emerge in the future and the Department cannot be constrained by a goal that commits law enforcement to focusing on a specific type of scam to the detriment of emerging threats. The nature of law enforcement is fluid, predicated upon a multitude of factors that are outside the Department's control.

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Department of Justice**

Ms. Gretta Goodwin and Ms. Jenny Grover

Given these challenges, the Department intends to take a careful, measured and sensible approach to the articulation of goals with respect to elder justice. To that end, the Department is forming a subcommittee of the Department's Elder Justice Working Group to explore the development of additional or clarification of present goals, including those suggested in the Report.

Recommendation 2: The Attorney General should develop and document outcome measures to track the progress the agency is making toward achieving its elder justice goals.

Response: As noted in the report, the Department "has taken some steps to collect data on specific elder justice activities," such as tracking "the number of cases that target or predominantly affect older adults and the number of attendees at its training events, as evidenced by DOJ's October 2018 report to Congress." Additionally, the Department "also tracks the number of elder justice grantees and monitors grantees' compliance with periodic requirements to report on funding status."

The Department agrees that outcome metrics can be helpful for assessing overall progress. Therefore, in addition to exploring the development of specific goals, the new subcommittee of the Department's Elder Justice Working Group will also endeavor to identify whether additional or different outcome measures might better track the Department's progress on its overall elder justice efforts. This will include consideration of the specific suggestions cited in the Report, as well as exploring opportunities for additional data collection to enhance the Department's efforts and better measure outcomes. However, it should be noted that metrics are often difficult in the prosecutorial context, as anything that resembles a quota would be inappropriate and could be misinterpreted. We do not believe that setting measurable prosecution targets will advance the goals or the cause of justice generally. Justice can only be determined in the context of a particular case or individual set of facts.

If I may be of further assistance to you, please do not hesitate to contact me. Your staff may also contact Louise Duhamel, Acting Assistant Director, Audit Liaison Group on 202-514-4006.

Sincerely,



Antoinette T. Bacon
Associate Deputy Attorney General and
National Elder Justice Coordinator
Office of the Deputy Attorney General

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contacts

Gretta L. Goodwin, (202) 512-8777, goodwing@gao.gov

Jenny Grover, (202) 512-7141 or groverj@gao.gov

Staff Acknowledgments

In addition to the contacts named above, Joy Booth (Assistant Director), Kim Frankena (Assistant Director), and Meghan Squires (Analyst-in-Charge) managed this review. Dina Shorafa, Brendan Orino, and Celia Thomas, along with Elizabeth Dretsch, Heidi Nielson, and Alexander Welsh made significant contributions to this work. Also contributing were Eric Hauswirth, Susan Hsu, Ben Licht, Jan Montgomery, Kevin Reeves, and Sarah Veale.

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