Victimization of and Criminal Justice Response to Vulnerable Adults and the Elderly

Submitted to:
Department of Public Safety

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Introduction

There has never been a study of the Vermont criminal justice system's response to crimes against vulnerable adults or the elderly. This project proposes to fill that knowledge gap by undertaking the first analysis of how crimes against vulnerable adults and the elderly are handled by police, prosecutors, the judiciary, and corrections. Crime Research Group (CRG), providing services as Vermont's Statistical Analysis Center (SAC), will compare the flow of these crimes through the criminal justice system. The elderly population was selected because it would be easier to identify victims by age in the data since it has been reported that the vulnerable adult designation and statutes are rarely used when prosecuting cases. This project will help identify when the designation is used and if it makes a difference in case processing. For this report, CRG is using 60 to identify elderly individuals. Nationally, studies have found that the estimates of elder abuse are most likely low.

> *Financial exploitation of older adults is a prevalent and underreported problem. The National Elder Mistreatment Study by Ron Acierno and colleagues surveyed a national sample of community-residing, cognitively intact, adults aged 60 years and older in 2008. The study found that over 11% of respondents reported experiencing some type of abuse or potential neglect in the past year, with the most frequent form of mistreatment noted being financial exploitation by family members (5.2%).[1]*

Individuals with cognitive impairments, no phone, or who are living in facilities were excluded. Other studies have shown slightly lower levels, but limited samples and methodologies have made precise data elusive.[2]

In 2018, National Public Radio presented a series on crimes against vulnerable adults with disabilities that was very compelling and disturbing. Recognizing that this is an invisible population in Vermont, CRG convened a meeting with organizations focused on the protection of vulnerable adults, including Vermont Legal Aid, Disability Rights Vermont, the Center for Crime Victim Services,

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[1] Acierno, R., Hernandez, M.A., Amstadter, A.B., Resnick, H.S., Steve, K., Muzzy, W., Kilpatrick, D.G. (2010). 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*, *100*(2), 292-297.

[2] Sabatino, Charles P., ABA Commission on Law and Aging, Legal Basics Elder Law Exploitation, Chapter Summary, January 2018. Legal Basics- Elder Financial Exploitation (acl.gov)

Vermont Council on Aging, and law enforcement. CRG also reviewed the data available through the Department of Aging and Independent Living which houses Adult Protective Services. As reported at the meeting, in many cases, law enforcement agencies are not appropriately identifying victims of crime as vulnerable or disabled. Nor are law enforcement officers and Adult Protective Services coordinating with each other in many instances. There is disagreement as to whether or not the definition of "vulnerable adult" is being too strictly interpreted by the courts making it challenging for law enforcement and prosecutors to bring charges under the statute. Not only was the group interested in crimes against vulnerable adults, also discussed were crimes against the elderly and people with disabilities and the potential differences in case processing.

Project Design and Implementation

First, CRG established the working group of experts in the fields of vulnerable adult victimization and elder abuse. Disability Rights Vermont, Vermont Legal Aid/Senior Law Project, the Center for Crime Victim Services, the Network against Domestic and Sexual Violence, and law enforcement agreed to participate in the working group. The Vermont Association of Area Offices on Aging, Adult Protection Services in the Department of Aging and Independent Living, and the Department of State's Attorneys and Sheriffs also joined the working group. Once the working group had come together to discus the project, the research questions were developed.

Research Questions

1) What are the victimization patterns for vulnerable adult and elderly populations?
2) Is there a difference for individuals prosecuted under the vulnerable adult statutes versus those prosecuted under the traditional criminal statutes where a victim was in a vulnerable population or elderly?

Data Identification

For this study four datasets were used to study crime against the vulnerable and the elderly: the National Incident Based Reporting System (NIBRS), Vermont criminal histories, Vermont adjudication data, and National Abuse and Maltreatment Reporting System (NAMRS). Each dataset captures different information about victims and/or offenders. See Table 1 below.

Table 1. Datasets and Data Elements

	NIBRS	VT Criminal Histories	Adjudication Data	NAMRS
Disability Status of Victim			X	X
Age of Victim	X			X
Location of Incident	X			X
Relationship of Victim to Offender	X			
Other Circumstances of the Offense	X			
Offender's Demographics	X	X	X	
Offender's past arrests/charges/convictions		X		

NIBRS data, criminal histories, and adjudication data were merged for analysis. By identifying individuals charged with violating laws relating to the abuse, neglect, and exploitation of vulnerable adults (13 VSA §§ 1375-1386), offenders' criminal histories were obtained. This, along with tracking incident numbers from the court data into NIBRS, furthered the research team's understanding of the offense circumstances.

The analysis on the merged dataset was supplemented with the NAMRS data. Using NIBRS data, the crimes committed against individuals who were age 60 and above were analyzed separately. These victimizations could not be matched into the court data.[3] Those that were matched were either in the cohort of vulnerable adults identified above or there were too few cases to perform an informative analysis. The NIBRS analysis still helps evaluate crimes against this population.

Vermont punishes certain crimes against vulnerable adults as defined statutorily differently than crimes against non-vulnerable adults. These crimes are codified in 13 VSA §§ 1375-1386. Using the Court Adjudication database, all individuals were identified who had charges disposed for these statutes. For the years 2015-2019, there were 124 defendants with cases in the database, 107 were matched into VCIC and their rap sheets were obtained. Of the 107, 51 were matched to an incident in NIBRS.[4]

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[3] NIBRS contains crimes reported to the police. Not all crimes reported result in arrests which do not always result in prosecutions. Only prosecuted cases appear in the court data. The low number of matches was not surprising.

[4] There should have been a NIBRS entry for most of the incidents. All the crimes in the vulnerable adult

Vermont Vulnerable Adult Statutes

The statutory definition of "Vulnerable Adult" in Title 33 of the Vermont Statutes Annotated § 6902(14) is any person 18 years of age or older who:

(A) is a resident of a facility required to be licensed under chapter 71 of this title;

(B) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;

(C) has been receiving personal care services for more than one month from a home health agency certified by the Vermont Department of Health or from a person or organizationthat offers, provides, or arranges for personal care; or

(D) regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, mental condition, or physical, psychiatric, or developmental disability:

(i) that results in some impairment of the individual's ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or

(ii) because of the disability or infirmity, the individual has an impaired ability to protect himself or herself from abuse, neglect, or exploitation.

Table 2 reveals how the vulnerable adult statutes compare to the statutes that involve similar crimes. There are three statutes for vulnerable adults that do not have a correlating statute.

Table 2. Vulnerable Adult Statutes Compared to Traditional Crime Statutes

| Vulnerable Adult Crimes Statutes	Traditional Crimes Statutes
Cruelty to person in care, 13 VSA § 1305	NA
Maltreatment of cognitive impaired individual, 13 VSA § 1306	NA
Abuse of Vulnerable Adult, 13 VSA § 1376	Simple Assault, 13 VSA § 1023 Aggravated Assault, 13 VSA § 1024
Abuse of Vulnerable Adult - unlawful restraint, 13 VSA § 1376	Unlawful Restraint, 13 VSA § 2406, 2407
Neglect of Vulnerable Adult, 13 VSA § 1377	NA
Sexual Abuse Vulnerable Adult, 13 VSA § 1378	Sexual Assault, 13 VSA § 3252, 3253
Financial Exploitation Vulnerable Adult, 13 VSA § 1379	Larceny, 13 VSA § 2501, 2502 Embezzlement, 13 VSA § 2531 False Pretenses, 13VSA § 2002

statutes are reportable under NIBRS. Some charges were missing because the incident date was before 2015, the start of Crime Research Group's access to the full NIBRS data. Other charges may be missing because of previously identified data quality issues discussed here: CRG's Data Quality Assessment.

Data Analysis

NAMRS Data

In fiscal year 2019, there were 707 vulnerable adults in the NAMRS data. Three hundred forty-five were female, 233 were male, and 129 were missing gender.

Figure 1. Age of Victim
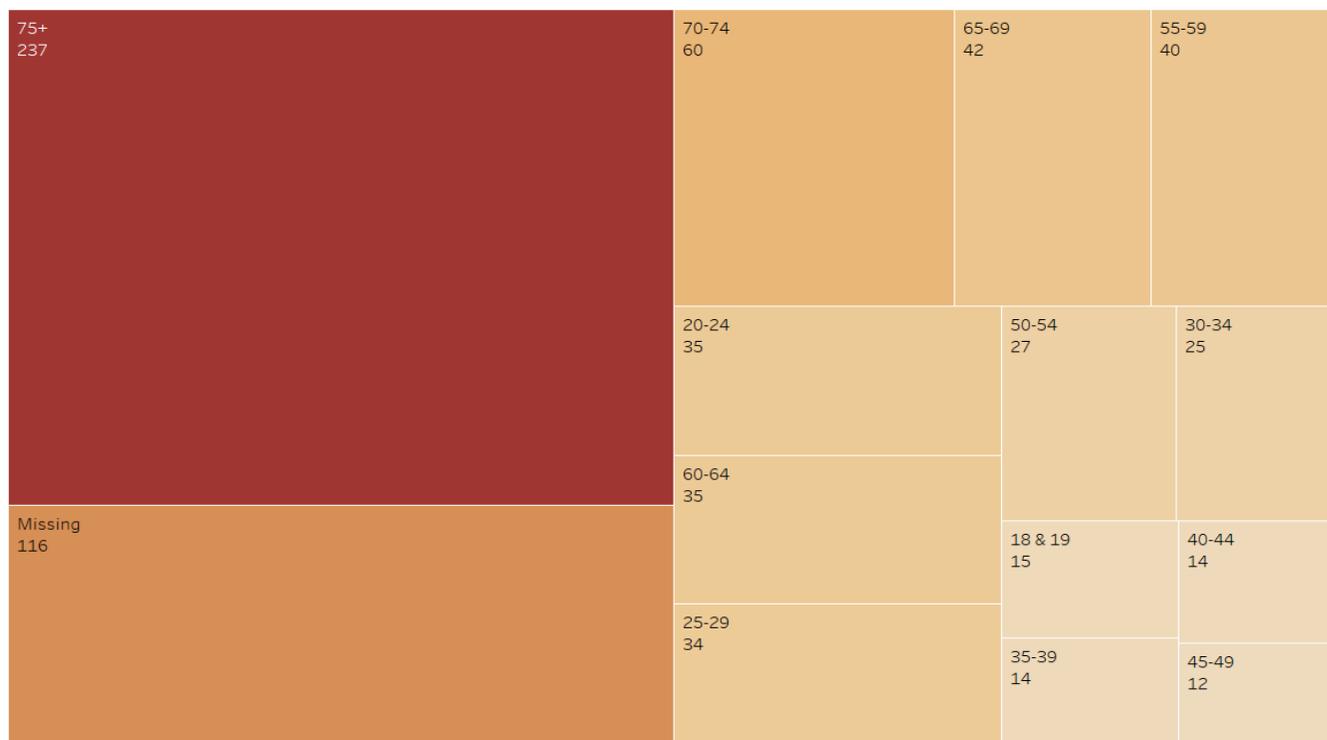
In the NAMRS data, victims tended to be over 75 years of age, although age was missing in 116 cases. Individuals who were between the ages of 70-74 were the next highest group of victims (60), then the 55-69 group (82). Interestingly the next three age groups with high numbers: 20-24 and 60-64 were similarly situated at 35 victimizations each and the 25-29 group at 34.

Type of Victimizations by Location

Table 3 illustrates the number and type of victimizations and the location of the abuse. Financial exploitation and neglect were the most common forms of maltreatment and took place in the home. Physical and emotion abuse contained in the next highest numbers also taking place in the home.

Table 3. Number and Type of Victimizations by Location of Victimizations

	Emotional Abuse	Exploitation (non-specific)	Financial Exploitation	Other Exploitation	Neglect	Physical Abuse	Sexual abuse	Other
Adult Day	1							1
Missing	16	3	48	5	19	17		2
Nursing Home	2	2	14	2	14	4		
Other	22	7	61	11	37	21	1	4
Private Home	87	7	183	18	156	78	2	8
Residential Care	5	21	4	14	4	1		

In the NAMRS data only three cases were reported as substantiated. This was significantly different from the substantiation numbers reports in the Adult Protection Services Annual report for SFY19 where 172 were reported as substantiated.[5] In the NAMRS data, 587 were reported as un-substantiated and 122 were reported as inconclusive. It is important to note that Vermont NAMRS data entry does not record who made the allegation. As a comparison, Department of Children and Families mandatory reporters tend to over-report and have a high un-substantiation rate.

Recommendations for NAMRS Data

- Increase reporting capacity to include more NAMRS fields relating to demographics of clients and circumstances of the allegations.

- Understand reporting discrepancies so that substantiations aren't grossly under reported.

- NAMRS data has the potential to become a rich source of information on the nature of these incidents. Information technology is needed to assist DAIL to expand and audit this reporting tool.

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[5] Adult Protective Services Annual Report SFY19 (vermont.gov)

Court Data on the Vulnerable Adult Statutes

CRG receives monthly data extracts from the judiciary for the purpose of maintaining a database for data requests and research. Figure 2 depicts the number of dockets in the county courts for vulnerable adult charges from 2015-2019. It is noticeable how small the numbers are for five years of court data.

Figure 2. Number of Dockets with a Vulnerable Adult Charge 2015-2019

Number of Dockets with a Vulnerable Adult Charge 2015-2019
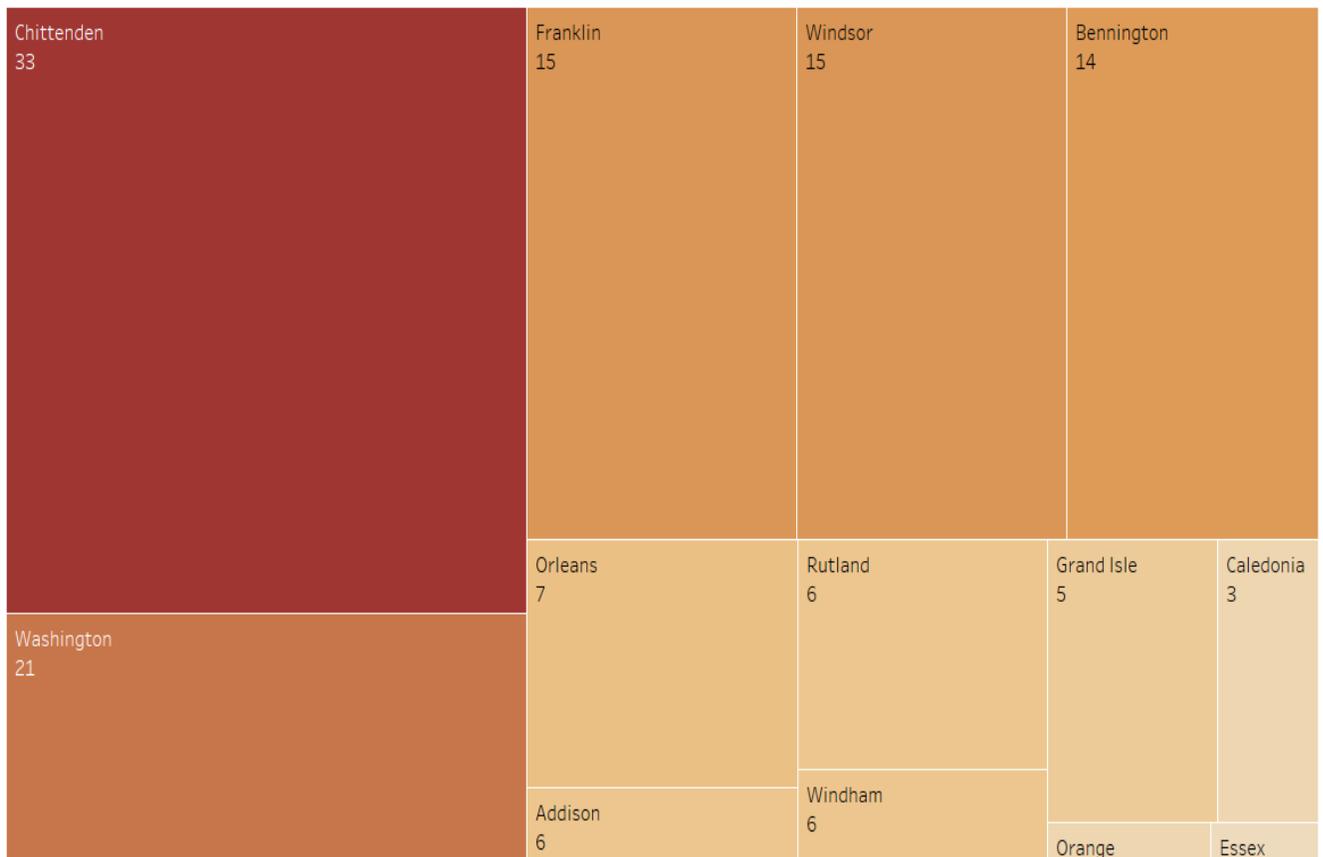
Not surprisingly, Chittenden County had the most court dockets under the vulnerable adult statute with 33 dockets. Washington County was the second highest county with 21 dockets. Franklin, Windsor, and Bennington Counties tied for third with 15, 15, and 14, dockets, respectively.

Table 4, below, describes the dispositions of vulnerable adult charges from 2015-2019. Out of the 179 charges, 95 charges were not prosecuted, while 62 were disposed as guilty, 12 were dismissed by the court, nine received an alternative disposition, and one was acquitted. These counts are charges and not individuals, an individual can have more than one charge.

Table 4. Disposition of Vulnerable Adult Charges 2015 - 2019

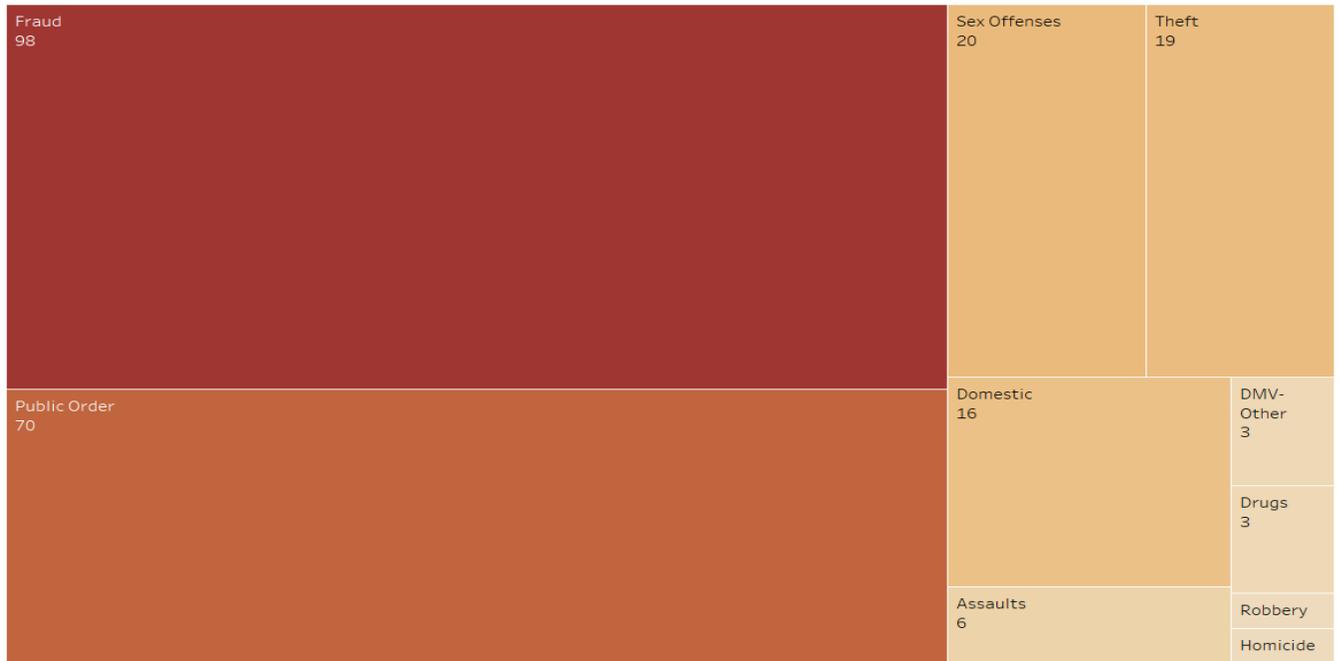| Statute / Offense Name	Alternative Disposition	Acquitted	Dismissed by Court	Guilty	Nolle Prosequi[6]
13V1376A / Abuse			1	10	11
13V1376B / Assault			1	3	5
13V1376C / Aggravated Assault				1	1
13V1377 / Unlawful Restraint				1	1
13V1378A / Neglect	1			4	7
13V1379B1 / Sexual Assault-no consent			1	3	3
13V1379B2 / Sexual Assault/Incapable		1	3	5	3
13V1379C / Lewd & Lascivious			1		
13V1379C2 / Sex Act			1	1	2
13V1380A / Misdemeanor Financial Exploitation	4		1	9	29
13V1380A / Felony Financial Exploitation	4		3	25	32
13V1381 / Services					1
Total	9	1	12	62	95

Table 4 also shows that the primary charge for victimizing a vulnerable adult is financial exploitation with 107 combined misdemeanor and felony charges out of 179 total charges. Abuse was the second most common charge with a distant 22 charges.

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[6] Nolle prosequi is a term used when the prosecutor decides not to move forward with the charges.

While Table 4 shows the charges filed under the vulnerable adult statutes, Figure 3 below, shows the additional charges filed with the vulnerable adult charges. Fraud is the charge most frequently filed with 98 charges. Public order is the next most frequent charge (70). Public order includes charges such as disorderly conduct, violations of conditions of release, and liquor law violations.

Figure 3. Other Charges Filed with the Charges Filed Under the Vulnerable Adults Statute

Other Charges Filed with Vulnerable Adult Statute

Fraud 98	Sex Offenses 20	Theft 19
Public Order 70	Domestic 16	DMV-Other 3
		Drugs 3
	Assaults 6	Robbery
		Homicide

Below in Figure 4 are the final charges under the vulnerable adult statutes. Only six were charged with something other than their original charge under these statutes.

Figure 4. Final Charges under the Vulnerable Adult Statutes

76 Guilty Charges under the Vulnerable Adult Statutes.

70 were convicted of the violation charged.

The remaining 6:

Simple Assault, Lewd & Lacivious, Prohibited Acts (3), Disorderly Conduct.

Table 5 displays the sentence distributions for the charges under the vulnerable adult statutes. This table shows which crimes receive a sentence to incarceration. Noted below, sexual abuse by a person, abuse, abuse/neglect with serious bodily injury, abuse/unlawful restraint, financial exploitation (felony and misdemeanor), and neglect all received sentences to incarceration.

Table 5. Sentence Distributions for Charges Under the Vulnerable Adults Statute

Vulnerable Adults Offense Name	Statute	Deferred	Incarceration	Probation	Split Sentence
FINANCIAL EXPLOITATION	13V1380AB			4.00%	
	13V1380AC				6.25%
SEXUAL ABUSE BY A PERSON	13V1379C2		10.00%		
SEXUAL ABUSE BY PERSON	13V1379C1			4.00%	
SEXUAL ABUSE-INCAPABLE of resisting, consenting, declining	13V1379B2	5.26%		4.00%	6.25%
SEXUAL ABUSE-NO CONSENT	13V1379B1				6.25%
ABUSE	13V1376A	15.79%	10.00%	16.00%	12.50%
ABUSE-ASSAULT	13V1376B			4.00%	6.25%
ABUSE-NEGLECT/Serious Bodily Injury	13V1378B	5.26%	10.00%		
ABUSE-UNLAWFUL RESTRAINT	13V1377A1		10.00%		
FINANCIAL EXPLOITATION	13V1380A=F	47.37%	30.00%	20.00%	56.25%
	13V1380A=M	21.05%	20.00%	40.00%	6.25%
NEGLECT	13V1378A	5.26%	10.00%	8.00%	

Table 6 shows the type and length of sentences for the charges under the vulnerable adult statute. Each of the sentence types included charges that included abuse, sexual abuse, and financial exploitation. Most charges (25) received a probation sentence. Nineteen charges carried a deferred sentence, out of the 19 - 13 charges were for financial exploitation and the average minimum sentence was 2.3 years. Ten charges resulted in a sentence of incarceration. Abuse/neglect/serious injury resulted in a minimum sentence of 4.2 years and a maximum of 15 years. The other high sentence was for sex abuse-incapable (of consenting, resisting, declining) which drew a split sentence of 10 – 20 years with 985 days (2.7 years) to serve and the rest of the time on probation.

Table 6. Type and Length of Sentence for Charges under the Vulnerable Adult Statute

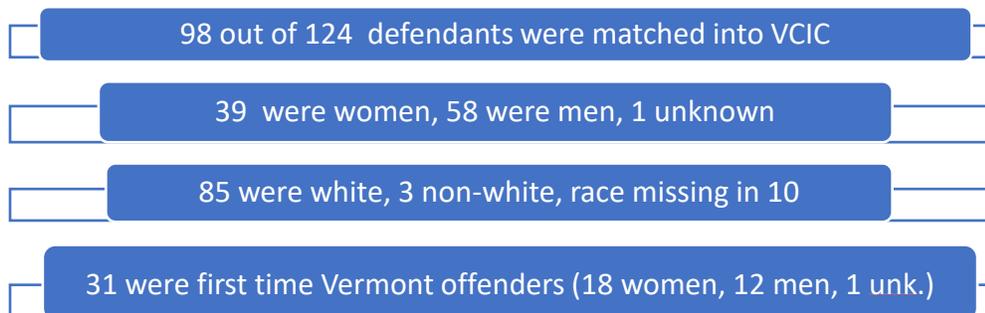| Type of Sentence	Offense Name: Vulnerable Adult Charge	Min in Years (AVG)	Max in Years (AVG)	Average Days to Serve (Split Only)	Number of Charges
Deferred	SEXUAL ABUSE-INCAPABLE OF Resisting, Declining, Consent	3.0	0.0	0.0	1.0
	ABUSE	1.2	0.0	0.0	3.0
	ABUSE-NEGLECT/SERIOUS	8.0	0.0	0.0	1.0
	FINANCIAL EXPLOITATION	2.3	0.0	0.0	13.0
	NEGLECT	1.0	0.0	0.0	1.0
Incarceration	VULNERABLE ADULT-SEXUAL ABUSE BY A PERSON	0.8	10.0	0.0	1.0
	VULNERABLE ADULTS - ABUSE	1.0	1.0	0.0	1.0
	VULNERABLE ADULTS - ABUSE-NEGLECT/SERIOUS	4.2	15.0	0.0	1.0
	VULNERABLE ADULT- ABUSE-UNLAWFUL RESTRAINT	0.1	0.1	0.0	1.0
	VULNERABLE ADULTS - FINANCIAL EXPLOITATION	0.5	1.9	0.0	5.0
	VULNERABLE ADULTS - NEGLECT	1.0	1.5	0.0	1.0
Probation	VULNERABLE ADULT-FINANCIAL EXPLOITATION	0.1	1.0	0.0	1.0
	VULNERABLE ADULT-SEXUAL ABUSE BY PERSON	2.0	5.0	0.0	1.0
	VULNERABLE ADULT-SEXUAL ABUSE-INCAPABLE	3.0	10.0	0.0	1.0
	VULNERABLE ADULTS - ABUSE	0.5	0.9	0.0	4.0
	VULNERABLE ADULTS - ABUSE-ASSAULT	0.5	1.0	0.0	1.0
	VULNERABLE ADULTS - FINANCIAL EXPLOITATION	0.9	2.1	0.0	15.0
	VULNERABLE ADULTS - NEGLECT	0.5	1.0	0.0	2.0
Split Sentence	VULNERABLE ADULT-FINANCIAL EXPLOITATION	3.0	7.0	32.0	1.0
	VULNERABLE ADULT-SEXUAL ABUSE-INCAPABLE	10.0	20.0	985.0	1.0
	VULNERABLE ADULT-SEXUAL ABUSE-NO CONSENT	1.2	3.0	30.0	1.0
	VULNERABLE ADULTS - ABUSE	0.5	1.0	45.0	2.0
	VULNERABLE ADULTS - ABUSE-ASSAULT	0.5	1.5	30.0	1.0
	VULNERABLE ADULTS - FINANCIAL EXPLOITATION	1.3	3.9	68.7	10.0

Criminal History Analysis

To conduct the criminal history analysis, CRG obtained the names and dates of birth for all individuals charged under the vulnerable adult statutes from the court data and submitted it to the Vermont Crime Information Center (VCIC). VCIC is the repository for all criminal histories. Researchers in Vermont (and other states) can only easily access their own state's criminal histories and so the following information is specific to Vermont criminal histories. The criminal histories, also known as rap sheets, were sent back to CRG to read and code for analysis. The following tables provide information on the descriptions of defendants, their prior criminal histories.

Demographics of Defendants

Of the 124 identified defendants, 98 were a match in the VCIC records. Thirty-nine were female and 58 were male, 1 was unknown. Eighty-five were white, 3 were non-white, and race was missing for 10 defendants. Thirty-one, including 18 women, 12 men, and 1 unknown were first time Vermont offenders.

Figure 5. Demographics of Defendants for Criminal Histories

98 out of 124 defendants were matched into VCIC

39 were women, 58 were men, 1 unknown

85 were white, 3 non-white, race missing in 10

31 were first time Vermont offenders (18 women, 12 men, 1 unk.)

An interesting point about the demographics is the high number of women who were defendants in the vulnerable adult cases.

Prior Criminal Histories

Of the 98 defendants matched into VCIC, 67 had a prior criminal history in Vermont. Of the 67, 26 had a simple assault charge, 21 had a prior charge of misdemeanor domestic assault, 17 had a prior DUI 1, and 4 had a prior charge under the vulnerable adult statutes. The gender of the defendants with the vulnerable adult charges were 2 males and 2 females.

Figure 6. Prior Criminal Histories of Defendants with Charges Under the Vulnerable Adult Statutes

67 defendants had a prior criminal history in Vermont

26 defendants has a prior simple assault charge

21 defendants had a prior charge of misdemeanor domestic assault

17 defendants had a prior DUI 1

4 defendants had prior vulnerable adult charges (2 males and 2 females)

National Incident Based Reporting System (NIBRS) and Crimes Against the Elderly

About NIBRS Data

Approximately 18,000 law enforcement agencies nationwide report data on known and reported crimes. Law enforcement agencies record administrative, offense, property, victim, offender, and arrestee information about 28 offense categories that include 71 specific types of offenses (Group A offenses) as well as arrest data for 13 offenses categorized as "Group B." Some examples of Group A offenses include arson, bribery, drug/narcotics violations, fraud, homicide, assault, and prostitution. Examples of Group B offenses include disorderly conduct, failure to appear, drunkenness, perjury, and liquor law violations. The user manual offers more detail on the type of information that is recorded in NIBRS and how the information is coded.[7] It is important to remember that only crimes known to law enforcement are captured in NIBRS. In Vermont, 100% of law enforcement agencies contribute data to NIBRS and have been compliant since the early 1990s.

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[7] NIBRS User Manual

Demographics of the Victims Over the Age of 60 (Elderly)

NIBRS data contain information on the victims of crimes and the victims' relationship to the offender. In reviewing crimes against persons over the age of 60, the data show that 16% of male victims were over 60, 14% of females, 9% of Indigenous people, 4% of Black victims, 4% of Asians and 16% of White victims.

Table 7. Gender of Victims Over 60

Gender	% Over 60
Males	16%
Females	14%

Table 8. Race of Victims Over 60

Race	% Over 60
Indigenous victims	9%
Asian victims	4%
Black victims	4%
White victims	16%

Crimes Against People Over the Age of 40

Table 9 displays the crimes committed against people over the age of 40 separated into ten-year age bands through 98 years of age. Simple assault has by far the highest number of charges committed against any of the age groups. Aggravated assault is the crime with the second highest number of charges. All the crimes decrease in number as the age of the victim increases.

Table 9. Crimes Against Persons Over 40   2015 – 2019

Age	Aggravated Assault	Fondling	Intimidation	Kidnapping	Murder & Nonnegligent Manslaughter	Negligent Manslaughter	Rape	Sexual Assault With an Object	Simple Assault	Sodomy
41-50	539	4	266	45	11		65	1	1,877	3
51-60	342	8	241	28	14	4	40		1,290	5
61-70	120	4	109	8	4		8		462	2
71-80	26		33		2		4		139	
81-90	2		4	1	1		3		65	
91-98							1		17	

Age Comparison for Crimes

Table 10 provides a comparison for crimes committed against people who are in the age range of 41 to 60 and for victims over the age of 60.

Table 10. Age Comparison for Crimes

Offense Name	41-60	61+
Hacking/Computer Invasion	20%	80%
Impersonation	44%	56%
Pocket-picking	45%	55%
Purse-snatching	46%	54%
False Pretenses/Swindle/Confidence Game	48%	52%
Counterfeiting/Forgery	50%	50%
Wire Fraud	50%	50%
Theft From Coin-Operated Machine or Device	56%	44%
Identity Theft	58%	42%
Burglary/Breaking & Entering	58%	42%
Credit Card/Automated Teller Machine Fraud	59%	41%
Theft From Building	60%	40%
Embezzlement	61%	39%
Extortion/Blackmail	63%	37%
Stolen Property Offenses	63%	37%
Theft of Motor Vehicle Parts or Accessories	64%	36%
Destruction/Damage/Vandalism of Property	64%	36%
Arson	64%	36%
All Other Larceny	65%	35%
Motor Vehicle Theft	67%	33%
Theft From Motor Vehicle	69%	31%
Shoplifting	73%	27%
Robbery	76%	24%
Bribery	100%	
Welfare Fraud	100%	

Victim to Offender Relationships

NIBRS data offers a set of data that describes the relationship between the victim and the offender. Table 11 provides information on the relationship for the age groups 41-60 and >61. It's significant that in looking at the relationships in many cases the victim and offender knew each other. Of the grandparents who were victimized by their grandchildren 100% were over 61.

Table 11. Victim to Offender Relationship

Relationship Name	41-60	61+
Victim Was Grandparent		100%
Victim was Employee	33%	67%
Victim Was Stepsibling	50%	50%
Victim Was Other Family Member	54%	46%
Victim Was Stepparent	60%	40%
Victim Was Stranger	61%	39%
Victim was Employer	64%	36%
Victim was Otherwise Known	66%	34%
Victim Was Neighbor	67%	33%
Relationship Unknown	68%	32%
Victim was Ex-Spouse	69%	31%
Victim Was Acquaintance	72%	28%
Victim Was In-law	75%	25%
Victim Was Spouse	78%	22%
Victim Was Parent	79%	21%
Victim Was Sibling	86%	14%
Victim Was Boyfriend/Girlfriend	87%	13%
Victim Was Friend	94%	6%

Table 12 represents the top relationship in each category. So, for example, 36% of all victimizations over 61 were by strangers while 27% of victimizations for the 41-60 age group were by strangers.

Table 12. Other Relationships

Relationship Name	41-60	61+
Victim Was Stranger	27%	36%
Victim was Otherwise Known	14%	16%
Victim Was Acquaintance	19%	15%
Relationship Unknown	13%	13%
Victim Was Parent	10%	5%
Victim Was Grandparent		4%
Victim Was Other Family Member	1%	2%
Victim Was Neighbor	2%	2%
Victim Was Boyfriend/Girlfriend	6%	2%

Non-Cooperation of Victims (60+) in Cases and Prosecution Declined

In looking a little deeper into the cases and for the purpose of identifying any geographic difference, CRG reviewed the data where the victim was uncooperative and where the prosecution declined to bring the case forward. Springfield Police Department had the highest number of incidents cleared because of non-cooperation - 23 incidents or 9.27% of the cases for those over the age of 60. Bennington Police Department cleared 21 incidents or 4.58% for lack of cooperation. Barre City Police Department cleared 10 incidents or 3.3% because the victims would not cooperate.

Non-Cooperation of Victims (60+)

- Springfield Police Department: 23 incidents, 9.27%
- Bennington Town Police Department: 21 incidents, 4.58%
- Barre City Police Department: 10 incidents, 3.3%

The highest rate of prosecution declining to move forward was in Bennington where 53 incidents or 11.5% of cases were rejected, followed by the Vermont State Police/St. Johnsbury barracks where 7 incidents or 1.45% were rejected and then Springfield where 6 incidents or 2.42% were rejected.

Victims Compensation Program – Vermont Center for Crime Victim Services

For victims with disabilities, females (132) tend to apply and receive compensation in higher numbers than males (39) although there were 51 claims where gender was unknown. The highest number of claims submitted from individuals with disabilities was from females with a mental health diagnosis followed by Other. Males submitting claims had a physical disability. See Table 13.

Table 13. Claims for Compensation with Listed Disability FFY2017 – 2020

	UNK	F	M
Deaf or Hard of Hearing	4	6	
Intellectual Disability	4	9	1
Intellectual Disability, Mental Health Diagnosis		1	
Mental Health Diagnosis	11	44	7
Mental Health Diagnosis & Physical Disability	1	2	
Other (Please specify)	13	41	10
Physical Disability, Deaf or Hard of Hearing			1
Physical Disability	10	22	14
Physical Disability, Mental Health Diagnosis	2	1	
Physical Disability, Visual Disability			1
Physical Disability, Visual Disability, Deaf or Hard of Hearing			1
Physical Disability, Visual, Intellectual		1	
Visual Disability	5	5	4
Yes per application/no type indicated	1		
Total Claims Filed	51	132	39

Below in Table 14, the top crime for which disabled adults filed to obtain compensation was domestic assault with 80 claims. Three other assault crimes followed: simple assault with 27 claims, sexual assault with 22 claims, and aggravated assault with 17 claims. The other crimes for which claims for compensation were paid are listed in Table 14.

Table 14. Crimes Disabled Adults Filed for Victims Compensation

Crime	Number of Claims
Domestic Assault	80
Simple Assault	27
Sexual Assault	22
Aggravated Assault	17
Other Property	16
Fraud	12
Vehicle Crimes	10
Unlawful Access	8
Homicide (homicide survivor)	8
VAPO	8
Burglary	4
DUI	4
Robbery	2
Stalking	2
Arson	1

Elderly Claims for Victim Compensation

For people over the age of 60, there were a total of 218 claims made by victims over the age of 60. This included 88 claims by males and 55 claims by females with 75 claims missing gender. The individuals making these claims are also represented in the disability claims above in Tables 13 and 14. Not surprising, fraud is the largest number of claims.

Table 15 show the claims by victims over the age of 60. Interestingly, more claims in the >60 age group are made by males, although both males and females experienced domestic assault, vehicle crimes, fraud, and being the survivor of a homicide. The category where gender was unknown also experienced these same crimes.

Table 15. Claims By Victims Over the Age of 60

	Male	Unknown	Female	Total
Fraud	12	10	12	34
Vehicle Crimes	12	10	9	31
Domestic Assault	16	11	4	31
Homicide (survivor)	9	14	7	30
Burglary	9	5	5	19
Simple Assault	9	4	3	16
Trespass	5	4	5	14
Other Crimes	3	10	1	14
DUI	4	1	3	8
Aggravated Assault	2	2	3	7
VAPO	2	3		5
Robbery	2		2	4
Arson	1		1	2
Vulnerable Adult	1	1		2
Sex Assault	1			1
	88	75	55	218

Conclusion

Broadly, this study endeavored to identify and assess the viability of the potential data sources related to victimization of Vermont's vulnerable adult population and its elderly (over 60), and subsequently analyze how crimes against that population are handled by law enforcement, prosecutors, and the judiciary. An initial review determined that law enforcement agencies were not consistently identifying victims as vulnerable adults and likewise failed to coordinate law enforcement efforts with the Department of Aging and Independent Living's (DAIL) Adult Protective Services (APS) Program. Further, the initial review identified the courts' interpretation of "vulnerable adult" as possibly impacting prosecutors' ability to bring charges under the enhanced statute. The identification of two research questions resulted from the initial stakeholder discussions and data review and centered on the following: 1) victimization patterns for vulnerable adults and the elderly; and 2) how those prosecuted under the vulnerable adult statutes differed from those prosecuted under other similar statutes where the victim was elderly.

The data sources used for this analysis were the National Adult Maltreatment Reporting System (NAMRS), Vermont Criminal Court adjudication data, criminal histories of offenders, National Incident Based Reporting System (NIBRS), and the state's Victims Compensation Program. Each of these sources presented a unique set of variables and the assessment of those data reflected numerous challenges impacting the analysis. First, the Department of Aging and Independent Living (DAIL) does not submit all potential data elements to NAMRS, including race, disability, and behavioral health. Second, the identification of major discrepancies in the number of substantiated cases between what was reported to NAMRS (3) and what was reported in Adult Protective Services annual report (172). Last, NIBRS does not include fields specifically defined to track vulnerable adults or domestic violence victims, thus complicating the data's use for these populations. Vermont Center for Crime Victim Services indicated that manual extraction of the dataset was needed to determine what was actually paid for out of the Victims Compensation Fund.

Despite the data challenges, several key takeaways were established from the analysis related to victimization patterns: prosecutorial differences exist across counties; women are possibly under-represented in police data as victims; property offenses involving tricks and cons are the property crime risks for those victims over age 60; defendants very likely had prior in-state criminal histories, including a prevalence of simple assault and/or domestic assault; non-cooperation of victims over age 60 contributed to exceptional clearance disparities across law enforcement jurisdictions.

In addition to the information gleaned from the analysis of the data, the review and analysis of the associated data sources allow for conclusions and recommendations regarding the collection and reporting of data. The NAMRS dataset has the potential to become an invaluable and comprehensive information source for the state, provided DAIL expands its reported fields to ensure that Vermont's reports more closely reflect the information in NAMRS. More broadly, all stakeholders responsible for data collection must work to reduce discrepancies across their reporting platforms to limit or eliminate missing or unknown fields that impact accuracy. Within the law enforcement community, the standardization of the CAD/RMS system toward Valcour should be recognized as an opportunity to improve NIBRS data collection to allow for improved analysis in conjunction with other platforms and data sources to more accurately study crimes against the vulnerable and elderly.

Applying Routine Activity Theory to Crimes Against Vulnerable Adults and the Elderly

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Introduction

Vermont is committed to providing a safe environment for our elderly and vulnerable adult populations in which to live and thrive. Vermont agencies and stakeholders work to ensure that the most vulnerable Vermonters are protected from criminal activity and regularly examine polices and laws to ensure best practices in independent and safe living   Understanding how and why offenders engage in criminal behavior can help policy makers design policies targeted at reducing victimization. This study looks at Vermont data relating to crime and victimization of elder and other vulnerable adults to determine whether routine activities theory works as a framework for understanding the behavior of offenders and the circumstances that allow the crimes to occur.

Routine activities theory is a criminological theory that looks at crime from the offender's perspective. It posits that crime happens within the normal structure of society and for a crime to occur there must be a motivated offender, a suitable victim, and no guardian[1] capable of deterring the crime (Felson & Cohen, 1980). As applied to vulnerable adults, the theory says that a motivated offender chooses a victim based on easy and unguarded access (DeLima, 2018) (Payne & Gainey, 2006). For example, if an offender wants to steal property to sell for drug money, it is easier to steal from family while visiting than to steal from a jewelry store.

Therefore, the offender will choose to steal from family as opposed to the jewelry story simply because it is easier, and there is better access during routine daily activities. Routine activities theory applies to crimes of violence as well as property crimes. Motivated sex offenders target victims and are successful in the absence of a capable guardian (Beuaregard & Martineau, 2015). It is the same for domestic assaults and other assaults. If committing violence is the reward, the offender will commit violence if the other two prongs are present (Payne & Gainey, 2006). If routine activities theory helps

Figure 1 Routine activities theory

explain the victimization patterns in Vermont, then policy solutions can be designed based on any of the three factors of routine activities theory to reduce victimization.

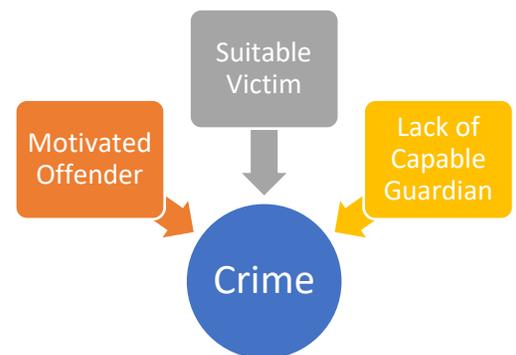[1] Guardian in routine activities theory is not referring to a legal guardian, although that role is included in the definition. In routine activities theory, a guardian could be a parent, a dog, security cameras, policies that require two signatures, etc.

Datasets

For this study four datasets were used to study crime against the vulnerable or the elderly: the National Incident Based Reporting System (NIBRS), Vermont criminal histories, Vermont adjudication data, and National Abuse and Maltreatment Reporting System (NAMRS). Each dataset captures different information about victims and/or offenders. Table 1 illustrates the data elements each dataset records.

Table 1. Data Included in Datasets

	NIBRS	VT Criminal Histories	Adjudication Data	NAMRS
Disability Status of Victim			X	X
Age of Victim	X			X
Location of Incident	X			X
Relationship of Victim to Offender	X			
Other Circumstances of the Offense	X			
Offender's Demographics	X	X	X	
Offender's past arrests/charges/convictions		X		

NIBRS data, criminal histories, and adjudication data were merged for analysis. By identifying individuals charged with violating laws relating to the abuse, neglect, and exploitation of vulnerable adults (13 VSA §§ 1375-1386), offenders' criminal histories were obtained. This, along with tracking incident numbers from the court data into NIBRS, furthered the research team's understanding of the offense circumstances. Routine activities theory is evaluated against this new combined dataset. The victims in this dataset presumably meet the definition of "Vulnerable Adult" as set forth in 13 VSA § 1375 (edited for clarity):

> (8) "Vulnerable adult" means any person 18 years of age or older who:
>
> > (A) is a resident of a licensed care facility;
> >
> > (B) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;
> >
> > (C) has been receiving personal care and services from an agency certified by the Vermont Department of Disabilities, Aging and Independent Living or from a person or organization that offers, provides, or arranges for personal care; or

(D) regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability that results in some impairment of the individual's ability to:

(i) provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or

(ii) protect himself or herself from abuse, neglect, or exploitation.

The analysis on the merged dataset is supplemented with the NAMRS data. Using NIBRS data, the crimes committed against individuals who are age 60 and above were analyzed separately. These victimizations[2] could not be matched into the court data. Those that were matched were either in the cohort of vulnerable adults identified above or there were too few cases to perform an informative analysis. This NIBRS analysis still helps evaluate routine activities theory as a framework for understanding crime against this population.

Routine Activities Theory and Crimes Against Vulnerable Adults

Vermont punishes certain crimes against vulnerable adults as defined statutorily differently than crimes against non-vulnerable adults. These crimes are codified in 13 VSA § 1375-1386. Using the Court Adjudication database, all individuals were identified who had charges disposed for these statutes. For the years 2015-2019, there were 124 defendants with cases in the database, 107 were matched into VCIC and their rap sheets were obtained. Of the 107, 51 were matched to an incident in NIBRS.[3] This section examines these data for the three prongs of routine activities theory: victim vulnerability, offender motivation, and lack of guardian to protect the victim.

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[2] NIBRS is crimes reported to the police and not all crimes reported result in arrests. Not all arrests result in prosecutions, and only prosecuted cases appear in the court data. The low number of matches was not surprising.
[3] There should have been a NIBRS entry for most of the incidents. All the crimes in the vulnerable adult statutes are reportable under NIBRS. Some charges were missing because the incident date was before 2015, the start of Crime Research Group's access to full NIBRS data. Other charges may be missing because of previously identified data quality issues discussed here: CRG's data quality assessment.

Characteristics of Victims

There were 51 victims in the dataset. Table 2 presents information on their demographics and victimizations.

Table 2. Victim Characteristics

Characteristics	Number of Victims	Percent of Total
Average Age	68.21	
Gender		
Male	23	45.10%
Female	26	50.98%
Missing	2	3.92%
Race		
White -Non-Hispanic	48	94.11%
All Other	3	5.8%
Offenses[4]		
Fraud Offenses	25	37.37%
Larceny/Theft Offenses	12	17.91%
Assaults	9	13.43%
Counterfeiting	8	11.94%
All Other Offenses[5]	13	19.40%

Victims ranged in age from 18 to 93, however, 56.86% were over the age of 70. Crimes of violence were committed against all age groups except those over 90. Younger victims were more likely to be victims of a crime of violence only and not fraud or other property offenses.

The crimes against these victims were prosecuted under the vulnerable adult statutes, and by definition these victims need some form of assistance in their daily lives (i.e., a "vulnerable victim"). As such, within the routine activities theory criteria, the first prong constituting a "suitable victim" is met. However, the nature of the disabilities these victims experience and how the disabilities impacted their victimization is unknown.[6]

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[4] A victim may be a victim of more than one offense. Numbers will not add up to total number of victims.
[5] Includes NIBRS offense categories: Sex Offenses, Destruction of Property, Narcotics Offenses, Robbery, and Kidnapping.
[6] Victims Compensation Program data was received relating to the disability status of claimants. However, the data do not capture whether the disability was a result of the crime, but that the person asserts disability at the time of the claim.

The NAMRS data has the potential to record more information on victims experiencing maltreatment as to the nature of their disabilities, and their demographics including marital status, employment status, guardianship, and case management services provided. This data source could help inform policies and programs for this population and the state is strongly encouraged to invest in data systems that will allow the Department of Disabilities, Aging and Independent Living (DAIL) to fully participate in this valuable data source.

Characteristics of Defendants Charged with Vulnerable Adult Abuse

Routine activities theory requires motivation on the part of the offender to commit the offense as well as access to the victim. Administrative data do not include the reason an offender committed a crime but do assist in understanding who commits crimes against vulnerable adults. Table 3 provides information on the 98 defendants whose data were matched into Vermont Crime Information Center to obtain their criminal histories as well as obtaining additional information on 51 of the 98 offenders from NIBRS data.

Table 3. Defendant Characteristics

Characteristics	Number of Defendants	Percent of Total
Age		
20-25	7	7.14%
25-29	11	11.22%
30-39	24	22.49%
40-49	28	28.57%
50-59	19	19.39%
60-69	5	5.10%
Over 70	4	4.08%
Gender		
Male	58	59.18%
Female	39	39.80%
Missing	1	1.02%
Race		
White	72	86.73%
All Other	3	3.06%
Missing	10	10.20%
First Time Vermont Offender		
Yes	31	31.63%
No	67	68.36%
Prior Vulnerable Adult Charge		
Yes	4	4.08%
No	94	95.91%
Relationship to Victim[7]		
Family[8]	7	13.72%
Friend/Acquaintance [9]	9	17.64%
Missing/Unknown [10]	35	68.62%

Women offenders were more likely to victimize people over 60, while male offenders made no distinction on the age of the victim. This indicates that female offenders may be choosing victims

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[7] The relationship to the victim is from the NIBRS data. N= 51.
[8] Includes the following NIBRS Categories: Boyfriend/Girlfriend, Spouse, Grandparent, Parent, Other Family Member.
[9] Includes the following NIBRS Categories: Friend, Acquaintance, Neighbor, Otherwise Known.
[10] The missing data for relationship to victim is high, given that there was an arrest and prosecution in all cases. This is an indication that perhaps an investigation is still ongoing when the NIBRS victim segment is submitted and not updated for the relationship status.

based on a specific factor, such as proximity, as opposed to random selection. If routine activities theory is not explaining this behavior, a normal distribution of the age of the victims would be expected and not targeted as it appears.

Males were the only defendants who were accused of sex crimes, and their victims ranged in age. The sex offenders were serial sex offenders and had multiple past charges of sex offenses in their record, indicating that the male sex offenders are polished, are not choosing their victims randomly, or that the sex offense is the result of another offense such as in the context of domestic violence. Male defendants who were over the age of 60 who committed violence did so against friends, acquaintances, and otherwise known individuals. Only one violent offense committed by a person over 60 was committed against a family member.

Prior Criminal History

Individuals charged with violating the vulnerable adult statutes have a different criminal history than the general offending population in Vermont. Defendants committing crimes against vulnerable adults were more likely to have a criminal history prior to the offense. Almost 32% of defendants in these cases had a prior criminal history, compared to 20% of the general offending population. They also appear to start their criminal careers later in life, the average age of first conviction was 27 compared to 25 in the control group. Fifty percent of the defendants committing crimes against vulnerable adults were under the age of 24 when they earned their first conviction compared to fifty percent of the control group being under 22 when the first conviction was earned.

The nature of the prior charges is also different.[11] The most common prior charge for the defendants was a fraud charge. Twenty-two of the 67 defendants with a criminal history accounted for 500 prior charges of a fraud crime. Fraud crimes include identity theft, bad checks, false pretenses, and other crimes involving trick or subterfuge. The most common prior charge for the control group was a charge against public order, such as disorderly conduct or unlawful trespass. Defendants committing crimes against vulnerable adults also had more extensive criminal histories with the defendants having an average of 32 prior charges versus 9 prior charges for the control

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[11] For purposes of this analysis, charges of 13 VSA § 7559e - violations of conditions of release while on bail were excluded. It is not ascertainable from the data if there is an actual substantive offense associated with each charge.

group. The differences between the control group and the defendants committing crimes against vulnerable adults are outlined in Table 4.

Table 4. Defendants Offending Against Vulnerable Adults vs. Control Group

Characteristics	Defendants Offending Against Vulnerable Adults	Control Group
Total Number in Cohort	98	523
Average Age of Cohort	42.31	26.29
Average Age of First Conviction	26.84	24.76
Gender (%)		
Male	59.18%	69.40%
Female	39.80%	30.21%
Missing	1.02%	.38%
Race (%)		
White	86.73%	86.45%
All Other	3.06%	8.03%
Missing	10.20%	4.78%
First Time VT Offender %		
Yes	31.63%	19.31%
No	68.36%	80.68%
Average number of prior charges	33	9
Most Common Prior Charge Type	Fraud	Public Order

People who are charged with violating vulnerable adult statutes are more specialized in their criminal history than the general offending population in that they focused more on financial crimes.[12] Further, they are more likely to be older than the general offending population, with a higher ratio of female offenders. This could represent the feminization of care, both in the profession and in home life.   The differences between the control group and the defendants charged with the vulnerable adult statute indicate that the offenders are motivated and specialized, further supporting routine activities theory as an explanation.

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[12] A next step in analysis should be creating a control group of defendants charged with fraud/embezzlement crimes as opposed to the general offending population. A prior study on property offenders arrested by Vermont State Police in 2017 found that the most common charge in criminal history records was public order offenses, the average age of the offender was 31, and 29% were first-time Vermont offenders. See CRG's report on property crimes and opiates. The age/criminal history differences noted in this study may be attributable to the type of offenses committed by the cohort group, which was largely fraud and other property crimes. However, there are differences in the populations that VSP patrols/has primary jurisdiction vs. the rest of the state. And the age/criminal history distinction in that study may be based on location and not criminogenic behavior. More study is needed.

Guardianship

The third prong of routine activities theory is lack of a capable guardian to protect the victim. Guardianship here can mean many different things including an actual court-appointed or other guardian, observation by others, cameras to protect property, accounting controls, etc. The NIBRS data supplemented with NAMRS data suggests that people are victimized in private spaces by people who are allowed access or at least for whom access is not questioned.

Using the combined dataset of the 51 offenders matched into NIBRS, the location of the offenses against vulnerable adults can be identified. The 51 offenders committed 73 offenses against people as opposed to the government or a business.[13]

Victims were overwhelmingly victimized in their homes, with 63% of the victimizations occurring there. A bank was the next most common place of victimization, with 23% of victimizations happening at a bank. The place of victimization is where the crime is completed. If a person steals checks and writes checks that are then cashed, the bank cashed the checks. Therefore, the crime would be in a bank.

The NAMRS data, collected by DAIL, records allegations of abuse. The data suggest that crimes against the elderly or vulnerable happen largely out of the public view. Of the 903 alleged abuse incidents reported to NIBRS, 60% were alleged to have occurred inside a private home, only 5% in residential care, and 4% in a nursing home. The remaining allegations were mostly in "other" or "unknown."

As discussed above, the relationship of the victim to the offender is missing in too many cases to draw a clear conclusion. However, family and friends/acquaintances are 30% of the known offenders in the victimizations of vulnerable adults. These people would not be out of place in a person's home or near them. Trusted individuals with proximity to vulnerable persons can provide place and opportunity ripe for victimization. As such, these victimizations can often be less publicly visible.

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[13] Offenses where the victim was the government, or a business were excluded.

Routine Activities and Crimes Against the Elderly in NIBRS

Although routine activities theory has been applied to elder abuse, research has largely focused on specific settings (e.g., residential) or specific populations such as those who cases were handled by a financial auditor (Payne & Gainey, 2006), (DeLima, 2018). NIBRS data is used to explore crimes against those over 60 to determine if routine activities theory can apply more broadly.

From 2015-2019 there were 12,000 victims over the age of 60. The age of victims further breaks down as follows:

Table 5: Number of Victims by Age

Age	Number of Victims
60-69	7,219
70-79	3,428
80-89	1,172
Over 90	242

Table 6 illustrates the differences in victimization patterns between victims who are over 60 and those who were identified as vulnerable adults:

Table 6. Victimization Patterns of Victims >60 v. Vulnerable Adults

Characteristic	Over 60	Vulnerable Adult
Offenses[14]		
Larceny	36.95%	17.91%
Fraud	14.09 %	37.37%
Destruction of Property	21.16%	1.39%
Burglary	17.62%	0 %
Location[15]		
Residence	62.23%	63.01%
Bank	2.93%	23.29%
Roadway	7.35%	0%
Parking Lot/Garage	6.58%	0%
Relationship to Offender[16]		
Family	37.76%	13.72%
Friend	44.18%	17.64%
Stranger	12.80%	NA

There are differences in the victimization patterns for vulnerable adults versus people over 60. Most notably, the types of crimes experienced by people over 60 are different than for those individuals defined as vulnerable under Vermont law. The differences in the victimization patterns also support the theory of routine activities. For example, the statutory definition of a vulnerable person is that their daily life is impacted by their disability or age. They may be more likely to have formal or informal fiduciary relationships, and this explains why fraud is the most common crime.

People over 60 who are not considered vulnerable under the statutes are more likely to have mobility and the ability to move out and about in the community. This makes them susceptible to being victimized in parking lots and roadways, as opposed to the vulnerable who may be limited in their capacity to be mobile, or they may be accompanied (with a capable guardian) when they are

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[14] Only the most common are listed, does not add up to 100%.
[15] Only the most common are listed, does not add up to 100%.
[16] Only the most common are listed, does not add up to 100%.

out in the community.   Looking at the age bands in the NIBRS data, the over-60 data support this. Seventy percent of crimes against those over 90 occurred in the home compared to 65% of those 60-69. There were no victimizations of those over 90 in parking lots or roadways.

Conclusion

Routine activities theory works as a framework for understanding crimes against the vulnerable and elderly. The vulnerable and elderly are victimized in their homes by people they know and offenders who are adept at offending.   Starting with this framework, policy makers and stakeholders can begin to craft policy that address the three prongs of routine activities theory to help reduce victimizations.[17]   Policies and practices that increase support and capable guardians for elders and vulnerable populations in their homes will help reduce victimization. Such policies or practices may include encouraging strong social networks who act as capable guardians, personal finance multifactor authentication, or other strategies that increase the number of people who can protect the person. As Vermont ages, our vulnerable population will increase. Working now to have supports in place will help reduce the impact of crime on the vulnerable and elderly.

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[17] It is incumbent upon society to reduce victimizations, not the victim.