

Elder Financial Fraud and Exploitation for Pension Counseling Projects

Judith Kozlowski, JD
Elder Justice Consultant

Bill Benson
National Policy Advisor
National Adult Protective
Services Association

Pension Rights Center
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AGENDA

- ▶ Overview of Elder Financial Exploitation,
 - ▶ Key Considerations
 - ▶ Types of Cases
- ▶ Working with Adult Protective Services (APS)
- ▶ Working with Older Adults
- ▶ Working collaboratively across business lines
- ▶ Q and A

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Financial Abuse and Exploitation Defined

- ▶ “Every year millions of older Americans are financially exploited by people known and unknown to them. **According to the National Adult Protective Services Association (NAPSA), elder financial exploitation is the misuse, mishandling, or exploitation of property, possessions, or assets of older adults. This is often without the older adult’s consent, under false pretense, or through undue influence, coercion, or manipulation. Perpetrators of elder financial exploitation range from family members and other trusted individuals to professional criminals and scammers.**”

- ▶ Source *Fighting Fraud: Scams to Watch Out For*, U.S. Senate Special Committee on Aging, September 2024

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*11,000 people
turn 65 every
day in the U.S.
- soon to be
12,000 a day*

**Financial capacity begins to
decline at age 53**

- ▶ Life experiences compensate until 80s - average age of victim is 78
- ▶ By 2025 over 20% of the population will be over 65
 - ▶ Florida, Pennsylvania, Maine, West Virginia, Vermont - over 20%
 - ▶ 25% of 66M older adults live in California, Florida and Texas

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Elder Abuse Overview

- ▶ Physical; Emotional;
Financial; Sexual;
Neglect; Self-Neglect;
Spiritual Neglect
- ▶ At least 10% of elders
suffer some form of abuse
in their lifetimes; 20%
suffer financial abuse or
exploitation

Biggest risk factors:
social isolation
cognitive impairment



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Financial Abuse and Exploitation

- ▶ Scope of financial exploitation: only 1 in 44 cases reported
 - ▶ Financial exploitation affects 20% of older adults
 - ▶ Loss Estimates range from \$2B to \$38B per year
- ▶ **Cost of financial exploitation**
 - ▶ Costs to public programs - Federal and state
 - ▶ Some state estimates: Utah (\$8M), New York (\$1.5-2B), Maine (\$28M), Wyoming and Oregon have done studies of elder abuse and exploitation.

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Why the Cases Are Complex

- ▶ ***Breach of long-standing trust***
- ▶ Desire to protect and shield the perpetrator
- ▶ Victim's fear that they might have to leave their home
- ▶ Belief that someone knew better what to do
- ▶ A sudden deterioration in the older adult's health
- ▶ Victim wanted to help the perpetrator in some way
- ▶ Short-term romantic relationships with sexual promises
- ▶ Suffered from some sort of cognitive impairment

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Factors Affecting Vulnerability



Over time, older adults can become much *less risk averse*



Brain diseases like dementias and Alzheimer's affect decision making and behaviors



Physical impairments: Eyesight; hearing; mobility; chronic conditions, etc.



Psychological impairments: Loneliness; dependence on others for activities of daily living (ADLs)

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Consequences

▶ Financial

- ▶ \$2.9 billion+ annual loss
- ▶ Poverty and homeless
- ▶ Tarnished credit scores
- ▶ Difficulty obtaining credit

▶ Health

- ▶ Can't afford medicine or health care
- ▶ Financial strain stressful
- ▶ Hospitalization
- ▶ Mortality /Suicide

▶ Psychological

- ▶ Long-Term Care Facility
- ▶ Loss of independence/security
- ▶ Relationship disruptions
- ▶ Fearful, depressed, suicidal
- ▶ Change of plans for future

▶ Secondary Victims/ Family

- ▶ Financial support
- ▶ Loss of wealth transfer
- ▶ Costs to Society

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Three Types of Cases



20% Third Party Schemes

Mass Marketing -
Sweepstakes; Lotteries;
Nigerian Oil scams;
Foreign Lotteries;
Investment and Penny
stocks; Real Estate
Others: home repair,
sweetheart scam;
grandparent scam; tech
support scams; corporate
scams



20 % Trusted Parties

Bankers; lawyers;
accountants;
investment
advisors/brokers;
doctors; neighbors; tax
preparers; hairdressers;
caregivers



60 % Family

Nuclear and
extended family

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Checklist of Red Flags

- ▶ New "friend" in life; or nefarious relative
- ▶ Irregular and frequent bank activity - Happy Birthday!
- ▶ Changes of POA
- ▶ Unusual investment requests
- ▶ Relative moves in or older adult moves in with relative
- ▶ Unusual purchases - expensive vehicles; beach houses
- ▶ Unnecessary home repairs that don't get done
- ▶ Caregivers overly interested in finances of older adult
- ▶ Lottery winner

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Forms of Financial Exploitation

- | | |
|---------------------------|--|
| ▶ Consumer fraud | ▶ Extortion |
| ▶ Internet fraud/theft | ▶ Sweetheart scams |
| ▶ Investment fraud | ▶ Theft |
| ▶ Scams | ▶ Homicides for profit |
| ▶ Embezzlement | ▶ Misuse of a power of attorney/guardianship |
| ▶ Identity theft | ▶ Improper use of assets |
| ▶ Medicaid/Medicare Fraud | ▶ Denial of care to keep the funds |
| ▶ Conversion | ▶ Denial of access to funds |
| ▶ Forgery | ▶ Promises exchanged ¹² |
| ▶ Affinity scam | |

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Working with Adult Protective Services

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About NAPSA

The National Adult Protective Services Association:

- ▶ Over 3,000 members across the country
- ▶ Provides:
 - ▶ Advocacy
 - ▶ Training
 - ▶ Technical Assistance
 - ▶ Networking
 - ▶ Research to Practice

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Adult Protective Services

Adult Protective Services (APS) is the nation's only civil/social services-based system authorized by state law in each state to serve older adults and adults with disabilities who are at risk of, or are experiencing abuse, neglect and/or financial exploitation. APS works closely with a wide variety of allied professionals such as health care providers, law enforcement officers, prosecutors, paramedics, firefighters and aging and disability services. APS is firmly committed to upholding adults' rights to autonomy and self determination.

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About APS

- ▶ 64% of APS are state-administered, 15% are county-administered, and 21% are administered various other ways, including NPOs on contract
- ▶ Serves as a victim-focused, social services response
- ▶ Receives abuse reports and attempts to remedy or reduce abuse
- ▶ Works with law enforcement, criminal justice, area agencies on aging, disability groups and other community services

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APS ≠ APS — Variations among States

- ▶ No common national definition of who is served nor what services they receive
- ▶ Residence of victim — APS investigates in:
 - ▶ Community: 100% of states
 - ▶ Nursing Facilities: 50% of states (ALFs - all states)
- ▶ Population for APS response:
 - ▶ 35 states: all adults with disabilities age 18+
 - ▶ 13 states: adults with disabilities age 18+ and all older adults
 - ▶ Some states: age 60+ only, or must be age 60+ and meet the state definition of “vulnerable”

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Interviewing Older Adults

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Normal Aging Brain

- ▶ Not all older adults have dementia or capacity issues.
- ▶ Many have normal, aging brains
- ▶ Normal aging brains may affect judgment and make a person more susceptible to fraud.
- ▶ The normal aging brain gradually loses its capacity to assess risk.
- ▶ The normal, aging brain often assesses risk in ways similar to those in their late teens, 20s and early 30s.
- ▶ The normal, aging brain becomes **LESS risk averse**.

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Signs of Dementia

A decline in mental ability severe enough to interfere with daily life.

Two of any of the following:

- Memory
- Ability to focus and pay attention
- Communications and language
- Reasoning and judgment
- Visual perception

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Trauma and Older Adults

5.1 Million Americans 65 or older have dementia

Up to 90% of older adults have experiences at least one traumatic event in their lifetime.

Effects of trauma:

- Confusing what is safe and what is dangerous
- Trouble focusing or concentrating
- Difficulty imagining the future
- Difficulty trusting others

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Steps for Effective Listening

1. Be Attentive, but Relaxed
2. Keep an Open Mind
3. Face the Speaker - Maintain Eye Contact
4. Listen to the Words: Picture what Speaker is Saying
5. Don't interrupt or Impose your "Solutions"
6. Wait for speaker to pause to ask clarifying questions
7. Ask questions to ensure understanding
8. Try to feel what the speaker is feeling
9. Give the speaker regular feedback
10. Pay attention to what *isn't* said - to nonverbal cues

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Active Listening to Older Adults

- ▶ **Getting the story may take time**
 - ▶ Reluctance due to embarrassment; family connection
 - ▶ Loss of family treasure may set the stage; photos
- ▶ **Physical concerns:**
 - ▶ **Hearing** - hearing aids? Working? In the ears?
 - ▶ Look directly at the victim/witness
 - ▶ **Ambulation**
 - ▶ **Eyesight** - glasses and - cataracts; floaters; Macular Degeneration
 - ▶ **Time of day** - Morning? Afternoon - risk of Sundowning?
 - ▶ **Medication** - what and when - Is interview disrupting the cycle?
 - ▶ **Shorter attention span**; depression and anxiety
 - ▶ **FOOD!** Water - kidney disease; Food - diabetic

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What to keep in your office or car or somewhere nearby

- ▶ Water
- ▶ Gatorade or similar sport drink- for electrolytes
- ▶ Ginger ale - sugar; ginger settles the stomach
- ▶ Soft cereal bar - no nuts - diabetics
- ▶ Cough drops/ hard candies - older persons with esophageal irritation
- ▶ Small fruit cups or applesauce - for diabetics
- ▶ Tissues
- ▶ Low sugar cookies - because everyone likes a treat



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Common Explanations - That Often Aren't Plausible

Power of Attorney

It's a family matter; Entitlement

Undue influence

Not hurting anyone

Lack of intent - done for the "benefit" of older adult

S/he said it was okay

Poor cognition of older adult

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POWERS of ATTORNEY

- ▶ ***Know what kind of power is at stake***
 - ▶ Can easily be prepared without legal advice
 - ▶ Breadth of authority granted
 - ▶ Lack of oversight
 - ▶ Collusive notaries
- ▶ ***Creating the Power***
 - ▶ Incapacity, Forgery, Fraud, Misrepresentation, Undue Influence
 - ▶ Document may not reflect the wishes of the older adult
- ▶ ***Implementing the Power/Types of Abuse***
 - ▶ Transactions exceeding intended authority
 - ▶ Transaction conducted for self-dealing
 - ▶ Transactions against the older adult's expectations

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Partners Across New Business Lines

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Some Possible Pension Related Financial Frauds and Exploitation

- ▶ Look for undue influence
- ▶ Veterans pensions - military on military frauds
- ▶ Lump Sum withdrawals to new advisor
- ▶ Lump Sum withdrawals for investments vs. inflation
- ▶ Mass withdrawals in small companies -retired colleague?
- ▶ pool funds for greater returns; Exxon in Louisiana
- ▶ Changes of beneficiary (ies)

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What to do if you suspect fraud or exploitation

- ▶ **KNOW** the state elder abuse statute: all states information at Eversafe.com; elderjustice.gov; COLA - americanbar.org
- ▶ **Call APS in the state of jurisdiction and Report!**
 - ▶ **You are probably a mandated reporter**
- ▶ Alert financial institutions - banks and investment advisers
- ▶ Report information to the FTC database at Consumer Sentinel.

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What is most important for you to know about APS?

- ▶ Is the state's APS a centralized (state run) program or a decentralized program with local APS programs?
- ▶ Even in a decentralized program (e.g., OH, IL, CA), important to have a contact in the state level office.
- ▶ What are eligibility factors allowing state's APS to accept and investigate the report (e.g., age, "vulnerability")?
- ▶ What types of FE cases does state's APS allowed to accept?
- ▶ APS staff very knowledgeable about older adults and the services and resources available to them.
- ▶ Most important: Know APS in your community!

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Federal Trade Commission

- ▶ **Consumer Sentinel; 2.7 million reports in 2017-2018**
 - ▶ 60+ reported more but less likely to admit losing money
- ▶ **Top Issues for Older Consumers**
 - ▶ **Romance Scams** - social media; dating apps; fake friends
 - ▶ **Sweepstakes**
 - ▶ **Tech Support**
 - ▶ **Foreign Money Scams** (not prizes)
 - ▶ **Imposter Scam** (government, business, family, friend)
- ▶ Majority wired money
- ▶ Next largest group was **gift and reloadable cards** - **fastest growing payment method**
 - ▶ Cards either mailed or PIN number relayed to scammer.

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Probate Judges

- ▶ Not all the family/guardians are in the same state and there are transactions that can be out of state
- ▶ Misuse of Powers of Attorney
- ▶ Supported Decision Making misused
- ▶ Accounting tools for judges/APS
- ▶ Multidisciplinary Teams - Ohio (I-teams)
- ▶ WINGS - Working Interdisciplinary Network of Guardianship Stakeholders
- ▶ National Center for State Courts - www.ncsc.org

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Who's Your Team?



Financial services - think broadly



Other Law enforcement: USPIs, USSS, state and local officials



Adult Protective Services and related social services



State securities; banking; commerce; insurance depts.



Mandated reporters in your district



Multidisciplinary Teams; victim services

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Useful Websites

- ▶ National Adult Protective Services Association - napsa-now.org
- ▶ Department of Justice - www.elderjustice.gov
- ▶ Consumer Sentinel - www.ftc.gov
- ▶ U.S. Postal Inspectors - www.postalinspectors.uspis.gov
- ▶ DOJ MoneyLaundering/Asset Recovery - www.justice.gov/criminal-mlars/victims
- ▶ SEC - www.investor.gov
- ▶ NASAA Securities Administrator Reporting - www.serveourseniors.org
- ▶ National Center on Elder Abuse - www.ncea.gov
- ▶ Bank Safe - www.aarp.org
- ▶ RAINN Mandatory Reporting Database - <https://apps.rainn.org/policy/compare/elderly.cfm>
- ▶ American Bar Association Commission on Law and Aging - www.americanbar.org

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THANK YOU!

Judith Kozlowski
JudithKozlowski4@gmail.com

Bill Benson
tbcg@starpower.net
bbenson@iasquared.org