

A WAY FORWARD: COLLECTIVELY RESPONDING TO ABUSE OF OLDER ADULTS

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Learning Objectives

- **Know the definition of elder financial exploitation**
- **Using a case study to reveal practical issues in detecting, preventing and intervening in case of financial abuse**
- **Discuss the application of Civil and Criminal investigations when seeking survivor resolutions**
- **Know how to develop collaborative strategies for conducting effective investigations**

Meet Ms. Penny

- Lives alone and has no immediate family
- Widowed since 2006
- Lives in her home.
- Does not drive
- Has some money, a good pension and three CD's that were only making a small percentage of interest
- Age related health issues, that required her to maintain a relationship with a doctor and take prescriptions daily
 - Hypertensive, A-Fib, Type 2 Diabetes, arthritis and Hard of hearing



Meet Mr. Money

- Licensed Financial Adviser with a large reputable firm
- Been in the financial business since 1992
- Passed several industry examinations and kept up with all continuing education requirements
- Had a lengthy history of terminations from Brokers, and mishandling of customer accounts
- Sanctions and fined for non-compliance
- Lied on employment applications
- Misrepresentation, failure to timely execute trades, unauthorized trading



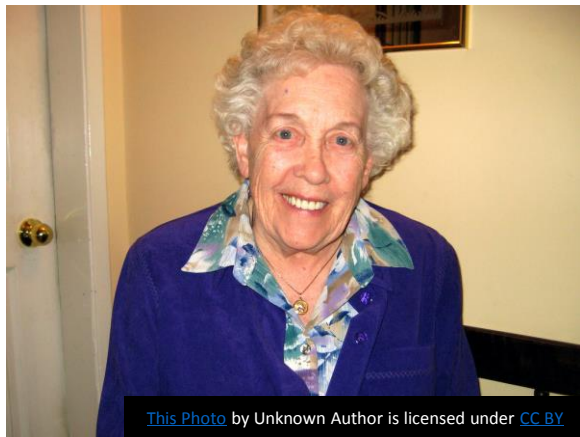
What is Financial Exploitation?

- Illegal or improper use of another's funds, property or assets
- Since not all older adults use the banking system, consider cash, gold, jewelry, antiques, homes as assets, and good credit



It really is all about the money!





Why was Ms. Penny Targeted?

- Trusting and polite
- Have assets
- Less likely to report fraud
- No or limited family involvement
- Live independently and solicited from others

Vulnerabilities for Victimization

- **Social Isolation**
- **Bereavement**
- **Dementia and diminished capacity**
- **Dependence on another to provide care**
- **Financially responsible for adult child or spouse**
- **Substance abuse**
- **Depression or other mental issues**



Ms. Penny visits the bank with Mr. Money

- Bank Personnel calls the local police department
- Police interview Ms. Penny and Mr. Money and find no evidence to arrest
- Ms. Penny states that she is fine and that Mr. Money is her trusted financial adviser

- Want the abuse **to end** but may also **want a relationship** with the abuser
- May **not even know** they are being exploited
- To **protect** the someone, i.e.; adult child
- **Recant** or be reluctant to work with authorities for fear of losing independence
- I am **too smart, or too savvy** to be a victim

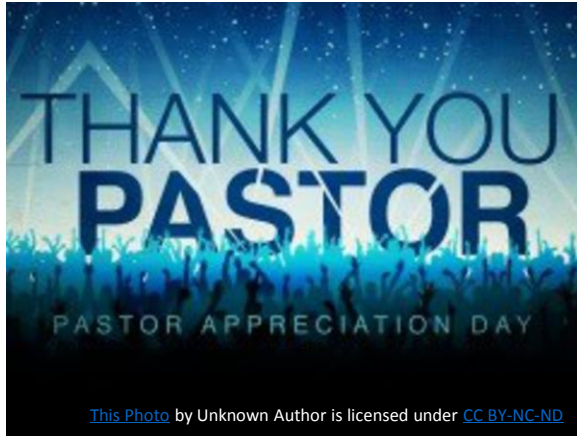
**Victims
Often do not
see
themselves
as a victim**

BOILERROOMS....

- <https://youtu.be/4zakyg3thfY>

Exploiters





A family's
LoveTM
is forever

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Exploiters: Who Are They?

- Trusted individuals
- New friends/lovers
- Unique trust relationship
- Financial Advisers
- Caregivers/Caretakers

Exploiters: Why they do what they do?

- Money!
- Fiduciary
- Stress, Divorce, care giver burden
- History of violence
- Financially dependent upon victim
- Additions

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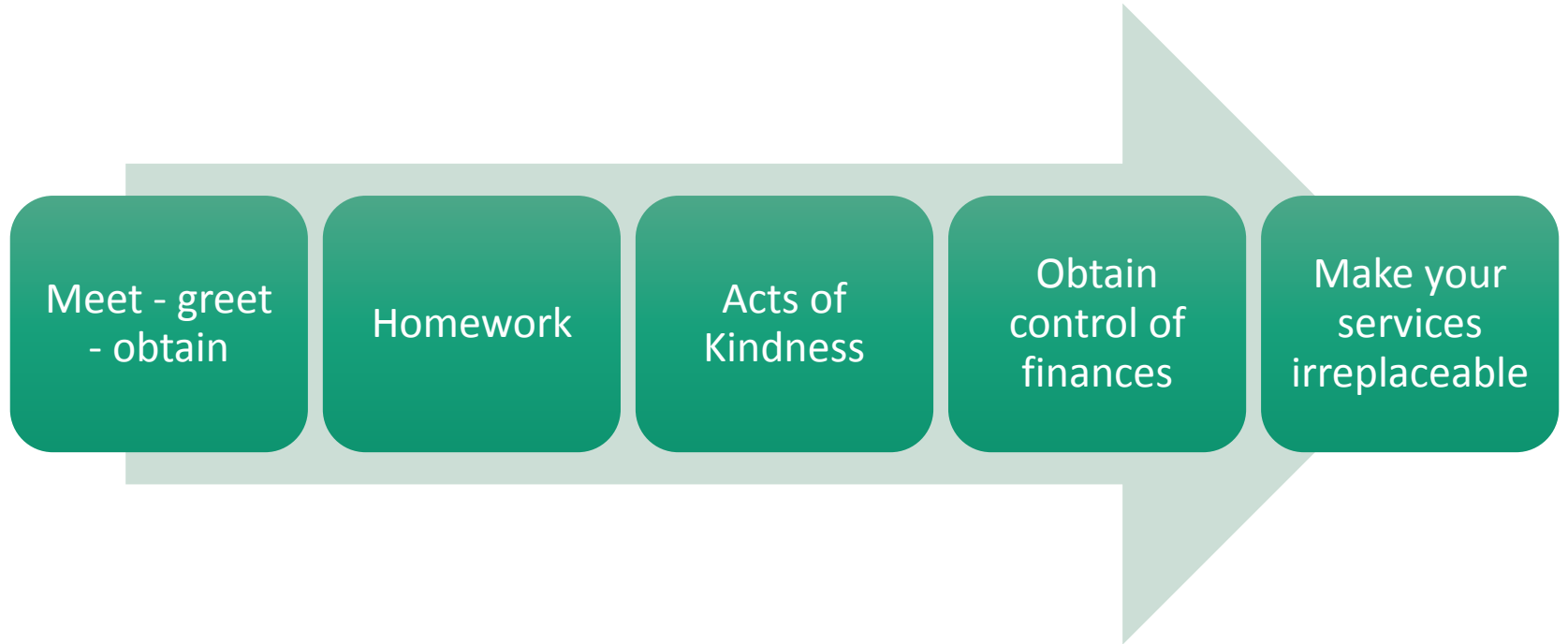
- Prey on vulnerabilities
- Creates dependency
- Creates lack of faith in one's abilities
- Keeps the victim unaware
- Isolate from others and information
- Random acts of kindness

**Tactics used
by Mr. Money
to induce
Ms. Penny**

The Offenders Often

- **Lie**
- **Manipulate**
- **Charm**
- **Justify their behavior**
- **Blame the victim**

Persuasion Timeline used by Mr. Money



Consent as a Defense

- “He/she gave it to me. He/she insisted I take it.”
- I have power of attorney and am only doing what is best for my dad”
- We are spending down his assets so that he can qualify for Medicaid
- “I planned to pay her back”
- It’s my inheritance and I’ll use it when I need it”

Consent is not Valid if ...

Generally, to give legal consent an individual must:

1. Have decision-making capacity
2. Have knowledge of true nature of act
3. Act freely and voluntarily


Victim lacks capacity

Undue Influence negates consent

Source: Undue Influence: The Criminal Justice

Response (YWCA of Omaha, 2006)



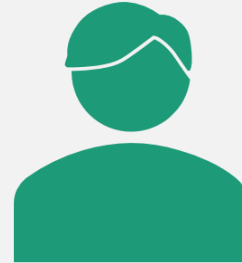


**What do you think
should happen
next?**

What are your experiences?

Role of Adult Protection Services

- Civil investigation
- Limited by the ORC (5101.60 - 5101.741)
- Age, impairment, community
- Primary mission to put protective services in place
- Autonomy/self-determinations
- Adult has right to refuse services



Signs of Alleged Exploitation

- Phone
- Door to door sales
- Flyers on your car, home door, mailbox
- Emails
- Websites
- Telephone
- Text messages
- More...



Mandatory Reporting ORC 5101.63

- Any person who has reasonable cause to believe
 - That an adult is being abused, neglected, or exploited; or is in a condition which is a result of abuse, neglect, or exploitation
- Shall immediately report to the County Department of Jobs and Family Services or the local designated Adult Protective Services agency

NEW Mandated Reporters Include:

**Pharmacist
Dialysis
Technician
Hospital 5122.01
Health Dept.
Employee
Humane Society
Agent
Firefighter
Ambulance Driver
Financial Planner**

**EMT/First
Responder
Building
Department
CPA
Real Estate Broker
Notary Public
Bank/S & L/Credit
Union Employees
Investment Adviser
Invest. Adv. Reps
Brokers
Registered
Representatives**

Penalty for not Reporting

- Fined not more than five hundred dollars
- Misdemeanor of the first degree
- Misdemeanor of the fourth degree

ORC 5101.99



Only Suspicion is Required

- Why do you suspect exploitation?
- What was reported to you?
- What have you observed?
 - Is missing money?
 - Are bills or rent not being paid?
 - Does the adult appear disheveled?
 - Is there a new best friend overseeing finances?
 - Was there an eyewitness to the transaction?

If You Notice Suspicious Behavior

- Try to find out the reason for the large transaction(s) or frequent withdrawals.
- Separate the member from unknown family member or strangers – give the member privacy.
- Remind the member of the initial withdrawal request.
- Check authorization and documentation
- Slow the transaction down.
- Report it to the proper authorities.

To Make a Report

1. Name, address and approximate age of the adult
2. List the vulnerabilities and/or weakness
3. The name and address of the caretaker and if known the alleged perpetrator
4. The reason(s) you suspect abuse, neglect and/or exploitation
5. The nature and extent of the suspected allegation (abuse, neglect or exploitation).
6. Emergency or risk to the adult

Call your local Adult Protective Services or

1-855-OHIO-APS (1-855-644-6277)

http://jfs.ohio.gov/county/County_Directory.pdf

Exploitation – 5101.60

The unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:

1. Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf; or

Continued

2. Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;

- **By deception;**
- **By threat;**
- **By intimidation.**

Indicators of Financial Exploitation

- Unpaid bills and termination of utilities
- Property liens or foreclosures notices
- Oversight of finances
- Checks written out to “cash”
- Disappearance of valuables
- Changes to wills and estate documents



Changes in Documents

- **New Power of Attorney** is executed; especially if senior is confused.
- **Changes in property titles**, trust and/or wills.
- Someone who handles the senior's affairs withdraws cash with **no apparent benefit to the senior**.
- **Financial statements** and share drafts are **no longer being sent to the senior's home address**.
- **Implausible reasons** for banking activity given by the senior or by the accompanying person.

Role of Law Enforcement



No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services:

- Without the consent of the owner or person authorized to give consent
- Beyond the scope of the express or implied consent of the owner or person authorized to give consent
 - By deception
 - By threat
 - By intimidation

**Theft (ORC
2913.02)**

Special Populations

➤ **"Elderly person" 65 or older**

➤ **"Disabled adult"**

- **some impairment of body or mind**
- **unable to work at any substantially remunerative employment 12 months**
- **without any present indication of recovery**
- **or certified as permanently and totally disabled by an agency of this state or the United States**

Enhanced Penalties

- Theft - 2913.02
- Identity Fraud - 2913.49
- Unauthorized Use of Property - 2913.04
- Misuse of Credit Card - 2913.21
- Unauthorized Use of M/V - 2913.03
- Forgery - 2913.21
- Securing writings by Deception - 2913.43
- Securities Fraud

...What happened to Ms. Penny and Mr. Money?

- **Bank called local police**
- **Local police followed up with Ms. Penny at her home (jurisdiction)**
- **Mr. Fox thought the gig was up**
- **Mr. Fox confessed and gave up more of his victims**
- **Criminal case was filed in County Court and Mr. Money was found guilty and sentenced to jail and to pay restitution to the victims.**

Ohio Division of Securities

Register/license	Register/license the securities professionals, and products they sell
Investigate	Investigate complaints from investors
Examine	Examine the Book and Records of all State Licensed Investment Advisers – bring necessary Administrative Actions against
Outreach	Outreach to Ohioans about securities fraud and how not to fall prey to this devastating exploitation
Protect	Work with the Elder Abuse Commission to protect Senior Investors

Explore the Relationship

- Evidence of Impairment
- Position of Trust
- Inability to Act Independently
- Fear or Anxiety
- Never Comes Alone
- Promises of Wealth or Prizes
- Romance



Consumer Prosecution Section

The mission of the Ohio Attorney General's Consumer Protection Section is to protect Ohio's consumers and businesses by ensuring safe and strong marketplace :

- **Education**
 - Public/professionals
- **Dispute resolution**
- **Enforcement of Consumer Laws**
 - Consumer Sales Practice Act

Fraud & Scams

The screenshot shows a web browser window with the URL <http://www.ohioprotects.org/>. The browser's address bar and tabs are visible. The website header includes the Ohio Attorney General's logo, navigation links like "Alerts", "Sign up for an e-Newsletter", and "Select Language", and the phone number "1-800-282-0515". A red banner with the text "★ OHIO PROTECTS ★" is present. Below this, a video player is shown with the text "FRAUD IS NEVER THIS OBVIOUS" and "That's why we're dedicated to protecting Ohio families." A play button icon is centered over the video frame, which shows a man in a cap looking at a smartphone.

http://www.ohioprotects.org/

Protecting Ohio Consumers...

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★ OHIO PROTECTS ★

FILE A COMPLAINT LEARN ABOUT FRAUD CONTACT US

FRAUD IS NEVER THIS OBVIOUS

That's why we're dedicated to protecting Ohio families.



What Can You Do?

Screening Questions

- Who manages your money day to day?
- How is it going?
- Do you run out of money at the end of the month?
- Do you regret or worry at the end of the month?
- Do you worry about financial decisions?
- Have you given power of attorney to another person?
- Do you have a will?
- Has anyone recently changed it?

Think Beyond the Surface

- Don't take exploiter's claim of consent at face value.
- Interview victim **alone**, away from suspect.
- Contact APS or law enforcement.
- **Document pattern of conduct** and concerns expressed by others.
- Refer to law enforcement or contact prosecutor to discuss further investigation.

Involved Consultants

- **Medical Care and Assessments**
- **Cognitive screening and testing**
- **Under treated/over treated medical care**
- **Sexual Assault Experts**
- **Financial experts to review documents**
- **Legal Advice or Protections**
- **Law Enforcement**
- **Other agencies**

Interdisciplinary Response

Adult Protective Services I-Teams

Community Plans of Cooperation

APS I-Team are mandated in the ORC

- APS
- Domestic Violence
- Law Enforcement
- Legal
- Aging Network
- Mental Health



Ohio's Reporting Structure

It is important that you always report and contact the proper authority

- Adult Protective Services (community)
- Long-Term Care Ombudsman (facility)
- Ohio Department of Health (facility)
- Law Enforcement (community and facility)

Ohio Legislation

Senate Bill 158 (Senator Wilson)

If the victim of the offense is an elderly person, (**no impairment/diagnosis required**) in addition to any other penalty imposed for the offense, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of courts shall forward all fines collected under division (B)(3) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.7 1 of the Revised Code.

Summary

- The exploiter is often a family member, a caregiver or other **trusted loved one**
- Exploiters may **use various tactics to unlawfully obtain a victim's "consent"** to obtain assets
- Investigate and take steps to **protect the victim's remaining assets**
- Guardianships and Powers of Attorney are **not licenses to steal**



Consumer Resources

- Do Not Call Registry = 888-382-1222, www.donotcall.gov
- Opt Out Programs = 888-567-8688, www.optoutforprescreen.com
- Annual Credit Reports = 877-322-8228, www.annualcreditreport.com
- Ohio Attorney General, Consumer Protection = 800-252-0515, www.OhioAttorneyGeneral.gov
- Ohio Division of Securities = 877-NVEST411, www.com.ohio.gov/secu
- Ohio Dept. of Job & Family Srvs.= 877-644-6562, www.jfs.ohio.gov

Questions?



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