

*Connecticut Law Enforcement Guide:*  
*Elder Abuse*



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**Caution: Information provided in this Guide reflects the laws, policies, and procedures existing at the time it was compiled and published. This information may change over time or be superseded by court and/or legislative actions.**

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## INTRODUCTION

Elder abuse is a growing injustice faced by older adults, and the effects can negatively impact their physical health, mental well-being, and financial stability. Justice Department figures reveal that one in ten older adults are victims of elder abuse.<sup>1</sup> A 2018 Securities and Exchange Commission report estimates that victims of elder financial abuse lose at least \$3 billion a year, but because elder abuse of all types is generally under reported, that figure is likely much higher.<sup>2</sup> The abuse of elders can be physical, mental, or sexual, or can take the form of neglect or financial exploitation. Financial exploitation is the most prevalent type of elder abuse. Justice for elders may include both criminal prosecution and civil remedies.

Law enforcement is often a first responder to elder abuse. Recognizing the signs of abuse and knowing how to access the system of agencies and resources on behalf of the older adult can be critical in determining if a crime has occurred, preventing further abuse, or simply assisting an at-risk older adult. This guide is designed especially for law enforcement personnel. It contains Connecticut-specific information to help law enforcement work with older adults who have experienced elder abuse. Additionally, the resources and tools shared at the end of this Guide will help law enforcement connect with relevant websites, state agencies and community partners who work to prevent and address elder abuse.

Connecticut Legal Services, Inc. produced this guide in collaboration with the Connecticut State Unit on Aging, Connecticut Department of Social Services, and the Vernon Police Department.

## TYPES OF ELDER ABUSE

Elder abuse is a general term that includes physical, psychological and sexual abuse; neglect and abandonment; and financial exploitation. Victims may face increased risk of death, physical or emotional injury, and financial ruin. Elder abuse harms millions of older adults each year and costs society billions of dollars annually in lost income and assets, health care, social services, and legal system expenses.

Connecticut law defines the different types of elder abuse as follows:

- **Physical Abuse:**
  - **Physical abuse:** The willful infliction of physical pain, injury or mental anguish or the willful deprivation by a caregiver of services, which are necessary to maintain physical and mental health. It includes bodily harm, psychological/emotional abuse, and sexual abuse.<sup>3</sup>

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<sup>1</sup> [www.justice.gov/elderjustice](http://www.justice.gov/elderjustice)

<sup>2</sup> [www.sec.gov/files/elder-financial-exploitation.pdf](http://www.sec.gov/files/elder-financial-exploitation.pdf)

<sup>3</sup> C.G.S. § 17b-450(5)

- Psychological/emotional abuse: Psychological or emotional abuse is not explicitly defined in Connecticut General Statutes, but is generally defined as the intentional infliction of anguish, pain, or distress through verbal or nonverbal acts. Psychological/emotional abuse includes but is not limited to verbal assaults, insults, and behavior that is threatening, intimidating, humiliating, blaming, terrorizing, isolating, demeaning or harassing.<sup>4</sup>
- Sexual abuse: While sexual assault is defined by state statute,<sup>5</sup> sexual abuse of an older adult is not explicitly defined. It is generally defined as non-consensual sexual contact of any kind with an older adult. Sexual contact with any person incapable of giving consent is also considered sexual abuse. Sexual abuse includes, but is not limited to, unwanted touching, all types of sexual assault or battery, such as rape, sodomy, coerced nudity, and sexually explicit photographing.<sup>6</sup>

- **Neglect**:

- Caregiver neglect: the failure to provide or arrange for provision of services necessary to maintain physical and mental health by a caregiver.<sup>7</sup>
- Abandonment: the desertion or willful forsaking of an elderly person by a caregiver or the foregoing of duties or the withdrawal or neglect of duties and obligations owed an elderly person by a caregiver or other person.<sup>8</sup>
- Self-neglect: the failure or inability of an elderly person to provide for himself or herself the services necessary to maintain physical and mental health.<sup>9</sup>

- **Financial Exploitation**:

- The act or process of taking advantage of an elderly person by another person or caregiver whether for monetary personal gain or other benefit or profit.<sup>10</sup>

For signs and symptoms of elder abuse and actions law enforcement can take, see Section, *Indicators of Elder Abuse*.

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<sup>4</sup> <http://eagle.trea.usc.edu/types-of-abuse/emotional/>

<sup>5</sup> C.G.S. § 53a-70 *et. seq.*

<sup>6</sup> <http://eagle.trea.usc.edu/types-of-abuse/sexual/>

<sup>7</sup> C.G.S. § 17b-450(6)

<sup>8</sup> C.G.S. § 17b-450(8)

<sup>9</sup> C.G.S. § 17b-450(6)

<sup>10</sup> C.G.S. § 17b-450(7)

## WHY ELDER ABUSE OCCURS

- **Risk Factors:**

Why an individual in a position of trust, whether a family member, friend, or professional, would abuse an older adult is a complex question. Research indicates that there are a number of contributing factors, often co-occurring, that increase an older adult's probability of suffering some form of elder abuse. Due to varying data collection methods, inaccurate data, and data that is simply unknown, the research outcomes are not entirely conclusive.<sup>11</sup> However, some risk factors consistently appear to increase the potential for elder abuse:

- Shared living situation:
  - A victim living with a family member or a paid caregiver: the older adult's dependence on the caregiver creates increased stress, and the increased demands on the caregiver can worsen already strained relationships.
  - The abuser may be dependent on the victim financially or for housing.
- Diagnosis of Alzheimer's or dementia:
  - Changes in the older person's abilities and behaviors, like increased agitation and combativeness, can increase caregiver stress.
- Gender of the victim:
  - While both men and women suffer from elder abuse, women tend to be victims of more persistent forms of abuse and suffer more severe physical and emotional injuries.<sup>12</sup>
- Personality traits of the victim:
  - Victims may respond more aggressively and utilize passive or avoidant behaviors to cope.<sup>13</sup>
- Social isolation:
  - Older adults may become more socially isolated due to a loss in their physical mobility, cognitive functioning, and loss of friends and family members.

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<sup>11</sup> National Research Council (US) Panel to Review Risk and Prevalence of Elder Abuse and Neglect; Bonnie RJ, Wallace RB, editors. Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America. Washington (DC): National Academies Press (US); 2003. 5, Risk Factors for Elder Mistreatment. Available from:

<https://www.ncbi.nlm.nih.gov/books/NBK98788/>

<sup>12</sup> <https://www.ncbi.nlm.nih.gov/books/NBK98788/>

<sup>13</sup> <https://www.ncbi.nlm.nih.gov/books/NBK98788/>

- Societal and Cultural values:
  - Ageism leading to stereotypes that older adult are weak, frail, or dependent.
  - Younger family members moving away, leaving older adults without local family supports.
  - Distribution of power within the family and view of women and older adults seen as having lower social status.<sup>14</sup>

Recognizing risk factors is an important step towards understanding that elder abuse is a multifaceted issue that requires a solution that involves multiple community resources, including law enforcement.

- **Abusers:**

Most elder abuse is perpetrated by a family member, caregiver or anyone providing care—including professionals. If an elder abuse victim lives in a long-term care facility, he or she is most likely to experience physical and emotional abuse by a nurse's assistant. Abusers are typically people who hold a position of trust, with the opportunity to know the victim's physical or mental vulnerabilities.<sup>15</sup>

Often cases of elder abuse involve relationships and dynamics that have developed over decades. Histories of domestic violence; changes in inter-personal relationships due to the older person's greater dependence on others for assistance; or a caregiver's sense of entitlement or desire for power and control over the older person (whether conscious or not) increase the probability of abuse.

- Who are the abusers?

Older adults may be abused, neglected, exploited or abandoned by:

- Family members
  - Spouses or partners
  - Adult children
  - Grandchildren or great-grandchildren
  - Other relatives
- Caregivers
  - Paid caregivers, such as home care agency or nursing home staff
  - Volunteers
- Fiduciaries
  - Agents under a power of attorney
  - Court-appointed conservators
  - Trustees of a trust

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<sup>14</sup> <https://www.who.int/news-room/fact-sheets/detail/elder-abuse>

<sup>15</sup> <http://eagle.trea.usc.edu/>

- Other professionals who have an obligation to act in their client's best interest, such as financial advisors, lawyers, and real estate agents
- Friends
- Neighbors
- Strangers
  - Maintenance or Handy Workers
  - Salespeople (Insurance or Financial Products)
  - Scammers
- Characteristics of some abusers:<sup>16</sup>
  - Many abusers have a prior criminal record.
  - Many have no means of support aside from the alleged victim's housing, pension, and social security income.
  - Many have mental illness or disabilities themselves.
  - Thirty-nine percent have drug or alcohol related issues.
  - Many appear controlling and may not want the victim interviewed alone.<sup>17</sup>

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<sup>16</sup> While some studies have identified these characteristics as those of abusers, it is important to keep in mind that not all people with these characteristics will be an abuser, and that anyone from any walk of life can be an abuser.

<sup>17</sup> <http://eagle.trea.usc.edu/>

## INDICATORS OF ABUSE

The following pages list the major types of elder abuse and the potential indicators of that type of abuse. These lists also include special considerations, unique to older adults, which law enforcement should take into account while investigating abuse. Finally, each list includes the potential crimes that may be involved.

**For more information about the types and definitions of elder abuse and crimes affecting older adults under Connecticut state law, see Appendix, *Criminal Statutes Related to Elder Abuse*.**

It is also important to note that recent research shows that most elder abuse victims experience more than one type of abuse. For example, perpetrators may use physical abuse or threaten nursing home placement to exploit a victim financially.<sup>18</sup>

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<sup>18</sup> Legal Issues Related to Elder Abuse, A Desk Guide for Law Enforcement, American Bar Association (2015)

## INDICATORS OF PHYSICAL ABUSE

Possible Indicators	Special Considerations	Possible crimes: <sup>19</sup>
<ul style="list-style-type: none"> <li>• Bruises, black eyes, welts, lacerations and rope marks<sup>20</sup></li> <li>• Burns caused by cigarettes</li> <li>• Bone fractures and skull fractures</li> <li>• Open wounds, cuts, punctures, untreated injuries in various stages of healing</li> <li>• Sprains, dislocations, and internal bleeding and injuries</li> <li>• Force feeding</li> <li>• Broken glasses/frames, physical signs of being subjected to punishment, and signs of being restrained</li> <li>• Misuse of medications (over or underutilization)</li> <li>• Misuse of physical or chemical restraints</li> <li>• Older person's report of being hit, slapped, kicked, grabbed, pinched, or mistreated</li> <li>• Older person's sudden change in behavior</li> <li>• Caregiver's refusal to allow visitors to see older person alone</li> <li>• Loss of Dentures and Hearing aids</li> <li>• Older person is unkempt; unbathed; smells</li> </ul>	<ul style="list-style-type: none"> <li>• Older adults are at greater risk of events that cause bruising, such as falls.</li> <li>• Older adults' skin bruises and tears more easily</li> <li>• Medications (such as blood thinners) or medical conditions may cause an older person to bruise more easily</li> <li>• Decline in cognitive functioning and confusion may increase later in the day ("sundowning")</li> <li>• The victim may appear frightened or anxious</li> <li>• Implausible or inconsistent explanations may be provided for injuries</li> <li>• The older person may exhibit confusion or disorientation that may be caused by a neglected health issue, such as an infection or misuse of medications</li> <li>• The perpetrator may try to conceal the injuries by bringing the older person to different physicians for treatment</li> </ul>	Abuse Murder Manslaughter Criminally Negligent Homicide Assault Threatening Reckless Endangerment Strangulation Kidnapping Unlawful Restraint

<sup>19</sup> See Appendix, *Criminal Statutes Related to Elder Abuse*

<sup>20</sup> See Appendix, NCEA diagram. Bruising in Older Adults: Accidental Bruising and Bruising from Physical Abuse

## ACTION PLAN / PHYSICAL ABUSE

- Use the Department of Justice’s EAGLE “First Responder Checklist”<sup>21</sup> to document and describe any physical injuries, as well as the victim’s overall level of independence and functioning (See Appendix, *EAGLE: First Responder Checklist*).
- Take photographs of any physical injuries. (See *Evidence Collection Tips* section of this Guide.)
- Take victim and witness accounts of how the victim was injured. (See *Investigation* section of this Guide.)
- Multiple types of elder abuse may be present. Explore and document the possibility of other types of abuse found in this Guide and EAGLE website.<sup>22</sup>
- Report victim to **Protective Services for the Elderly: 1-888-385-4225 or 211**

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<sup>21</sup> <http://eagle.trea.usc.edu/>

<sup>22</sup> <http://eagle.trea.usc.edu/>

## INDICATORS OF PSYCHOLOGICAL/EMOTIONAL ABUSE

Possible Indicators	Special Consideration	Possible crimes. <sup>23</sup>
<ul style="list-style-type: none"> <li>• Nervous or agitated in presence of caregiver</li> <li>• Withdrawn or non-responsive</li> <li>• Imposed isolation; communication and visitation with friends and family restricted by caregiver</li> <li>• Fearful of saying or doing something wrong</li> <li>• Deferring to others out of fear<sup>24</sup></li> <li>• An elder's report of being verbally or emotionally abused</li> </ul>	<ul style="list-style-type: none"> <li>• Emotional abuse can be words or actions that are threatening, blaming, terrorizing, humiliating, isolating, or demeaning</li> <li>• Emotional abuse is often present with other types of abuse</li> </ul>	Abuse Threatening Kidnapping Unlawful Restraint

## ACTION PLAN / PSYCHOLOGICAL/EMOTIONAL ABUSE

- Use the Department of Justice, EAGLE “First Responder Checklist”<sup>25</sup> to document and describe any physical injuries, as well as the victim’s overall level of independence and functioning (See Appendix, *EAGLE: First Responder Checklist*).
- “Emotional abuse” is not specifically defined under Connecticut state law, however, it may meet the definition of “abuse” if it is the “willful infliction . . . of mental anguish, or the willful deprivation by a caregiver of services which are necessary to maintain . . . mental health.”<sup>26</sup>
- Psychological/Emotional abuse is often present with other types of abuse. Explore and document the possibility of financial abuse, sexual abuse, physical abuse and neglect.<sup>27</sup>
- Report victim to **Protective Service for the Elderly: 1-888-385-4225 or 211**

<sup>23</sup> See Appendix, *Criminal Statutes Related to Elder Abuse*.

<sup>24</sup> <http://eagle.trea.usc.edu/types-of-abuse/emotional/#1502234644938-84350f2d-50d4>

<sup>25</sup> <http://eagle.trea.usc.edu/>

<sup>26</sup> C.G.S. § 17b-450

<sup>27</sup> <http://eagle.trea.usc.edu/types-of-abuse/emotional/#1502234666158-deb84171-d50a>

## INDICATORS OF SEXUAL ABUSE

Possible Indicators	Special Considerations	Possible crimes. <sup>28</sup>
<ul style="list-style-type: none"> <li>• Bruises on the buttocks, breasts, inner thighs, genital areas</li> <li>• Unexplained venereal disease or genital infections</li> <li>• Unexplained vaginal or anal bleeding</li> <li>• Torn, stained, or bloody underclothing</li> <li>• Fear of caregiver or others in the vicinity</li> <li>• Difficulty walking or sitting</li> <li>• An elder's report of improper touching or of being sexually assaulted or raped</li> </ul>	<ul style="list-style-type: none"> <li>• Sexual abuse is also committed if sexual interaction involves an incapacitated person who is not competent to give informed consent</li> <li>• Sexual abuse happens to older adults in all types of settings, including nursing homes, long-term care facilities and the victim's home.<sup>29</sup></li> </ul>	Sexual assault Assault

## ACTION PLAN / SEXUAL ABUSE

- 24 hour hotline for sexual assault victims: **1-888-999-5545**  
<http://examguidelines.endsexualviolencect.org/>
- Arrange an immediate Sexual Assault Nurse Examiner (SANE) exam.
- Use the Department of Justice, EAGLE “First Responder Checklist<sup>30</sup>” to list everyone who has access to the victim. Document and describe injuries as well as the victim’s level of independence and functioning (See Appendix, *EAGLE: First Responder Checklist*).
- Take photographs of any physical injuries (See *Evidence Collection Tips* section of this Guide).

<sup>28</sup> See Appendix, *Criminal Statutes Related to Elder Abuse*

<sup>29</sup> <http://eagle.trea.usc.edu/types-of-abuse/sexual/>

<sup>30</sup> <http://eagle.trea.usc.edu/>

- Take victim and witness accounts of how the victim was injured (See *Investigation* section of this Guide).
- If the victim is a resident of a long-term care facility, cross report to the Connecticut Long-term Care Ombudsman Program (See *Resources* section of this Guide).
- Explore and document the possibility of other types of abuse found in this Guide and EAGLE website.<sup>31</sup>
- Report victim to **Protective Services for the Elderly: 1-888-385-4225 or 211**

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<sup>31</sup> <http://eagle.trea.usc.edu/>

## INDICATORS OF CAREGIVER NEGLECT

Possible Indicators	Special Considerations	Possible crimes: <sup>32</sup>
<ul style="list-style-type: none"> <li>• Lack of medical aids (e.g., glasses, teeth, hearing aids, and/or medications)</li> <li>• Lack of assistive devices such as wheelchair, walker, cane or scooter</li> <li>• Dehydration, malnutrition, and poor personal hygiene</li> <li>• Unattended or untreated health problems</li> <li>• Hazardous or unsafe living conditions (e.g., no running water, no electricity, inappropriate temperature, unaddressed structural hazards)</li> <li>• Older adult is bedbound and left without care or an unsupervised person with dementia</li> <li>• Unsanitary or unclean living conditions (e.g., dirt, fleas, bed bugs, rodents, lice, urine or fecal smell, inadequate clothing)</li> <li>• Delay in seeking care for injuries and medical care, including bedsores</li> <li>• Unpaid bills, rent, property taxes, insurance policies</li> <li>• The older person's report of being neglected</li> </ul>	<ul style="list-style-type: none"> <li>• Caregivers may be unaware of the resources available to the older person and themselves</li> <li>• Older caregivers may have own physical or mental diagnoses that limit their ability to care for the victim</li> </ul>	<p>Abuse          Caregiver Neglect          Reckless Endangerment          Unlawful Restraint</p>

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<sup>32</sup> See Appendix, *Criminal Statutes Related to Elder Abuse*

## ACTION PLAN / CAREGIVER NEGLECT

- Use the Department of Justice, EAGLE “First Responder Checklist”<sup>33</sup> to document and describe the victim’s hygiene, bedsores (if applicable), living environment, as well as the victim’s overall level of independence and functioning. (See Appendix, *EAGLE: First Responder Checklist*.)
- Take photographs of any physical injuries and the living quarters. (See *Evidence Collection Tips* section of this Guide.)
- Explore and document the possibility of other types of abuse; financial exploitation often accompanies elder neglect. See *Financial Exploitation* section in this Guide and EAGLE website.<sup>34</sup>
- Report victim to Connecticut **Protective Service for the Elderly: 1-888-385-4225 or 211**

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<sup>33</sup> <http://eagle.trea.usc.edu/>

<sup>34</sup> <http://eagle.trea.usc.edu/>

## INDICATORS OF ABANDONMENT

Possible Indicators	Special Considerations	Possible crimes: <sup>35</sup>
<ul style="list-style-type: none"> <li>• The desertion of an older person at a hospital, nursing facility or other institution</li> <li>• The desertion of an older person at a shopping center or other public location</li> <li>• An older adult who is confused or has dementia and who has been left home alone for days</li> <li>• An older adult who is unable to provide basic information about themselves and is found wandering<sup>36</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Caregivers may be unaware of the resources available to the older person and themselves; out of desperation they may leave the older adult at a hospital or institution</li> </ul>	Abuse Caregiver Neglect Reckless Endangerment

## ACTION PLAN / ABANDONMENT

- Use the Department of Justice, EAGLE “First Responder Checklist”<sup>37</sup> to document and describe the victim’s physical condition, hygiene, bedsores (if applicable), living environment, as well as the victim’s overall level of independence and functioning. (See Appendix, *EAGLE: First Responder Checklist*).
- Take photographs of any physical injuries, as well as the living quarters. (See *Evidence Collection Tips* section of this Guide).
- Financial exploitation often accompanies elder neglect. Explore and document the possibility of other types of abuse. See, *Financial Exploitation* section in this Guide and EAGLE website<sup>38</sup>.

<sup>35</sup> See Appendix, *Criminal Statutes Related to Elder Abuse*

<sup>36</sup> [https://ncea.acl.gov/NCEA/media/docs/Intro\\_EA-Pro-Abandonment-Slides-2014.pdf](https://ncea.acl.gov/NCEA/media/docs/Intro_EA-Pro-Abandonment-Slides-2014.pdf)

<sup>37</sup> <http://eagle.trea.usc.edu/>

<sup>38</sup> <http://eagle.trea.usc.edu/>

- Report victim to Connecticut **Protective Services for the Elderly: 1-888-385-4225 or 211**

## INDICATORS OF SELF-NEGLECT

Possible Indicators	Special Considerations	Possible crimes: <sup>39</sup>
<ul style="list-style-type: none"> <li>• Lack of medical aids and supplies (e.g., glasses, teeth, hearing aids and/or medications)</li> <li>• Lack of assistive devices such as wheelchair, walker, cane or scooter</li> <li>• Dehydration, malnutrition, and poor personal hygiene</li> <li>• Unattended or untreated health problems</li> <li>• Hazardous or unsafe living conditions (e.g., no running water, no electricity, inappropriate temperature, unaddressed structural hazards)</li> <li>• Unsanitary or unclean living conditions (e.g., rotten or expired food, dirt, fleas, bed bugs, rodents, lice, urine or fecal smell, inadequate clothing)</li> <li>• Unchanged diapers or lack of incontinence supplies</li> <li>• Delay in seeking care for injuries and medical care, including bedsores</li> <li>• Unpaid bills, rent, property taxes, insurance policies</li> <li>• Grossly inadequate housing, hoarding or homelessness</li> </ul>	<ul style="list-style-type: none"> <li>• Lifestyle choices or living arrangements alone do not prove self-neglect</li> <li>• Self-neglect is the most common referral to Protective Services for the Elderly<sup>40</sup></li> <li>• Older adults may be unaware of the resources available to assist them to continue to live in the community</li> <li>• Older adults may not seek out assistance for fear of being “put in a home”</li> </ul>	<p>Self-neglect is <b>NOT</b> a crime. However, it has two connections to the criminal justice system:</p> <ul style="list-style-type: none"> <li>• Self-neglecting behaviors may be an indicator or result of some other type of abuse (e.g., financial exploitation may result in an older person not being able to afford food or utilities)</li> <li>• An older person who is self-neglecting may come to the attention of the criminal justice system before coming to the attention of Protective Services for the Elderly</li> </ul>

<sup>39</sup> See Appendix, *Criminal Statutes Related to Elder Abuse*

<sup>40</sup> [https://ncea.acl.gov/NCEA/media/docs/Intro\\_EA-Pro-Abandonment-Slides-2014.pdf](https://ncea.acl.gov/NCEA/media/docs/Intro_EA-Pro-Abandonment-Slides-2014.pdf)

## ACTION PLAN / SELF-NEGLECT

- If there are medical concerns, call for emergency medical services.<sup>41</sup>
- Report to **Protective Services for the Elderly: 1-888-385-4225 or 211**
- Contact Mobile Crisis Intervention and Evaluation Unit: 203-974-7300

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<sup>41</sup> <https://ncea.acl.gov/NCEA/media/docs/Intro-EA-Pro-Self-Neglect-Slides-2014.pdf>

## FINANCIAL EXPLOITATION / INDICATORS OF ABUSE

Financial exploitation of older adults is an extremely prevalent and significantly underreported problem that involves the illegal or improper use of an older adult's funds, property or assets for personal benefit, profit or gain. Financial exploitation is enormously costly to victims' economic security; studies estimate the financial losses due to exploitation at billions of dollars each year.<sup>42</sup> For many, the funds lost are their entire life savings. Family members, trusted friends or caregivers frequently commit financial exploitation. As a result, an older victim may be reluctant to talk about financial exploitation because of feelings of shame or fear of losing independence.

Many times, law enforcement's initial reaction is that an offense against an older adult is a civil matter. While sometimes true, many cases may in fact involve criminal violations that should be pursued by law enforcement. The Department of Justice "EAGLE" website<sup>43</sup> offers information and checklists to help officers make an informed determination whether the complaint is a criminal matter or civil matter, or both.

While numerous criminal statutes address the injustice of elder financial exploitation, civil remedies are also powerful tools to mitigate the effects of abuse, especially in collaboration with law enforcement efforts. For a list of civil statutes offering redress for financial exploitation, see Appendix, *Civil Legal Remedies for Elder Financial Exploitation*.

### Key Definitions and Facts:

- Financial exploitation of older adults can be divided into two broad categories: exploitation by a known person or exploitation by a stranger.
  - **Known person:** Financial abuse or exploitation by a known person (a family member, close friend, caregiver, or person/organization in a position of trust) who breaches the trust of a vulnerable person and misuses the individual's funds to serve their own needs at the older person's expense.
    - Older adults may be in need of assistance to manage their finances, pay bills, or get access to their funds, due to decreased mobility (loss of driving), cognitive decline, or other health issues. In some cases, older adults may be unaware that the person they trusted to assist them is taking their funds. In other situations, the older adult may have been bullied into allowing the intervention of a family member. (See below section, *Capacity, Consent and Undue Influence*).
  - **Stranger or "new friend":** Fraud, misrepresentation, or scams by a stranger or "new friend" who deceives the vulnerable person by identity theft or an ever-changing variety of scams.

<sup>42</sup> <http://longevity.stanford.edu/financial-fraud-research-center/>

<sup>43</sup> <http://eagle.trea.usc.edu/first-responder-checklist/>

**Indicators of possible elder financial abuse include, but are not limited to:**

- An older adult's report of financial exploitation.
- The older adult is a victim of identity theft.
- Misuse of financial accounts.
  - Sudden changes in financial accounts or banking practice, including an unexplained withdrawal of large sums of money by a person accompanying the older person. An older person without capacity may be coerced, induced, threatened or tricked into establishing joint ownership of an account that financially benefits the other person.
  - Someone who may benefit financially is involved in establishing a joint account or ownership that does not reflect the older person's true wishes through acts such as forgery, fraud, identity theft, misrepresentation, or undue influence.
  - Creation of joint bank account with another who uses the money for his/her own benefit.
  - The inclusion of additional names on an older person's bank signature card.
  - Unauthorized withdrawal of the older adult's funds using the older adult's ATM card.
  - Cashing an older person's checks without authorization or permission, suspicious signatures on checks, checks made increasingly out to cash or change in checking patterns.
- Use of a Power of Attorney by agent for activities against wishes of principal.
- The improper use of a power of attorney or conservatorship to gain access to assets or income.
- Abrupt changes in a Will or other financial documents.
- Unexplained disappearance of funds or valuable possessions.
- Provision of substandard care or bills unpaid despite the availability of adequate financial resources.

- Discovery of an older person's signature being forged for financial transactions or for the titles of his/her possessions.
- Sudden appearance of previously uninvolved relatives claiming their rights to an older adult's matters and affairs, and their entitlement to an older adult's possessions.
- Unexplained sudden transfer of assets to a family member or someone outside the family.
- Providing services to the older adult that are not necessary.
- Forging an older person's signature.
- Misusing or stealing an older person's money, credit cards or possessions.
- Coercing or deceiving an older person into signing any legal document, such as a contract.
- Home improvement contractors paid for services that are inadequate or never completed. (See Appendix, *Department of Consumer Protections: Home Improvement Scams Training For Law Enforcement*).
- Scams. Examples that target older adult's are:
  - Sweepstakes and contests scams
  - Over-the-Border scams, e.g. Grandparent scam
  - Lottery scams
  - Counterfeit check scams
  - Gift card scams
  - Prescription drugs scams
  - Charity or affinity scams
  - Funeral or cemetery fraud
  - Reverse mortgage scams
  - Telemarketing/Internet scams
  - Romance/sweetheart scams
  - Medicare Insurance scams
  - Social Security scams
- Report victim to **Protective Services for the Elderly: 1-888-385-4225 or 211**
- **For a list of possible crimes**, see Appendix *Crimes Associated with Financial Exploitation*

## PROTECTIVE SERVICES FOR THE ELDERLY

The Connecticut Department of Social Services (DSS) administers the Protective Services for the Elderly (PSE) program. PSE is responsible for receiving and investigating reports of suspected abuse, neglect, exploitation, and abandonment of individuals age 60 or older in Connecticut. PSE social workers conduct unannounced visits to the subject of the report to determine if the individual is in need of protection or other assistance. The social worker also conducts an assessment to determine if the individual has decision-making capacity to accept or refuse protective services. If warranted, the PSE social worker will arrange for or refer the victim to other services. Other services may include financial management, food delivery, health care, home repair or cleaning, housing (emergency or long-term), legal assistance, and transportation. In extreme circumstances, PSE may seek legal interventions through the Superior or Probate courts.<sup>44</sup> However, the PSE program is committed to implementing **the least restrictive means possible to provide for the individual's basic needs and financial security, while also promoting the individual's independence.**

**For more information about PSE, go to: <https://www.portal.ct.gov/DSS/Social-Work-Services/Social-Work-Services/Related-Resources>**

- **PSE Serves Individuals:**
  - 60 years of age and older
  - Located in Connecticut
  - Living in the community, nursing facilities, or residential care homes
  - Subject of allegations of abuse, neglect, financial exploitation, or abandonment
  - No financial requirements
- **How to Make a Report of Abuse to Protective Services for the Elderly**

The PSE **Central Intake Line should be the first line of contact** for all reports of elder abuse made to PSE for investigation. Reports can be made one of two ways:

- Phone: 1-888-385-4225 (Monday through Friday, during business hours)  
After hours/Weekends: 211 or 1-800-203-1234
- Fax: Complete “Report Form for Protective Services for the Elderly”<sup>45</sup> (See hardcopy, Appendix) and fax to 1-860-424-5091

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<sup>44</sup> C.G.S. § 17b-452

<sup>45</sup> <https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Social-Work-Services/W-675.pdf?la=en>

- Information to Include in a Report to PSE:
  - The individual's name, address and telephone number
  - Age, sex, and other descriptors pertinent to the older adult and situation (e.g. medical diagnoses, cognitive impairment, physical limitations, living situation, etc.)
  - Name and address of hospital or long-term care facility (if applicable)
  - Language spoken
  - Name and contact information for relevant persons, social supports, or other community providers with knowledge of the situation
  - Nature of suspected abuse; physical, sexual, or emotional abuse, neglect, self-neglect, abandonment, exploitation, or combination of abuses
  - Details of the incident such as date, time, location, witnesses
  - Name of suspected perpetrator and their relationship to the older person
  - Reporter's name and contact information
  - Any other information the reporter believes might be helpful in the investigation.

## **Mandatory Reporters**

**Anyone** who suspects the abuse, neglect, exploitation, or abandonment may make a report to Protective Services for the Elderly. Connecticut law, however, provides that certain professionals (including police officers) are **mandated** reporters of elder abuse. (For a complete list of mandated reporters in Connecticut, see Appendix, *Who Must Report Elder Abuse: Mandatory Reporters*.) Mandated reporters must make their report within 72 hours or else they face a fine and a potential misdemeanor conviction. C.G.S. §§ 17a-412(a) and 17b-451(a).

- Key Definitions and Facts
  - In almost every state, the law mandates that certain professionals or other individuals report suspected elder abuse to a protective services agency like PSE.
  - State laws vary as to who is considered to be a mandatory reporter. In Connecticut, mandatory reporters include, but are not limited to, health care providers, long-term care providers, behavioral health providers, and public safety personnel.
  - In Connecticut, lawyers, financial institutions, and representatives of the Long-term Care Ombudsman's Office are not mandatory reporters.
  - If the older adult is in a long-term care facility at the time of the alleged abuse and the investigation indicates that there was an improper discharge from the facility or there is a possible violation of the provisions of the Public Health Code with respect to licensing requirements, the Commissioner of Social Services must refer the report or complaint, together with a report of the

investigation, to the Commissioner of Public Health for appropriate action. C.G.S. § 17a-413

- Any person who makes a good faith report of abuse to Protective Services for the Elderly, or who testifies in any administrative or judicial proceeding arising from such report, shall be immune from any civil or criminal liability on account of such report or testimony, except for liability for perjury. C.G. S. § 17b-451(d)
- Making a fraudulent or malicious report or providing false testimony is a class A misdemeanor. C.G.S. § 17b-451(c)(2)
- **Actions to Consider**
  - In Connecticut, a mandatory reporter's failure to report suspected elder abuse is a crime under state law.
  - Consider whether failure or delay in making a mandated report will result in the victim suffering further harm, other victims experiencing elder abuse, or the perpetrator not being held accountable.
  - Consider whether failure or delay in making a mandatory report will allow evidence to be lost, altered, or destroyed.
  - Consider whether failure or delay in making a mandatory report is evidence of a cover up or conspiracy.
  - Encourage the victim to seek legal assistance, per departmental policy.
    - Civil monetary damages may be appropriate if an elder abuse victim suffered additional harm because a mandated reporter did not report suspected elder abuse to PSE or another agency.
  - Make a report of suspected elder abuse to an employer and a licensing entity.
    - A mandatory reporter's failure to make a report may indicate a need for training.
    - A mandatory reporter's failure to make a report may be grounds for a fine, loss of license, or other disciplinary action by an employer or a licensing entity.
  - Make a report to PSE if you suspect elder abuse and ***the case was not referred to your police department by PSE.***

## How Law Enforcement and PSE Can Work Together

Older adults, absent a court order to the contrary, are considered legally competent to make their own decisions and have all the same rights as any other adult. When working with an older adult who may appear to have memory problems or confusion, ensuring their safety and well-being while promoting their independence in the least restrictive environment can be a challenge. Often, there may be a difference between what the older person *wants* and what PSE or law enforcement may see as in the older person's *best interest*. As long as the older person is legally competent, their choice will prevail.

The goal of the Protective Services for the Elderly program is to develop a plan of care aimed at providing a safe environment while preserving the older person's right of self-determination. With that overarching goal in mind, the PSE program has been granted limited authority under state law to act to protect older adults.

- Actions that PSE may take:
  - PSE can assess the older individual's needs, make service recommendations, and arrange for and make referrals to service providers, if the older person is willing to accept services. PSE can seek and obtain an assessment from medical providers to determine whether an older adult is competent or not.
  - PSE can petition the probate court to appoint an involuntary conservator of person or estate for the older person.
  - In emergencies, PSE may be able to provide limited temporary payment for services to ensure an older person's safety. Potential services may include: adult day care, companionship, counseling, homemaker, home health care, home-delivered meals, long-term services and supports or, if necessary, emergency nursing home placement. See C.G.S. § 17b-453.
  - PSE may make a referral to domestic violence shelters contracted to care for older persons with increased care needs that cannot be served in a traditional domestic violence shelter setting.
  - PSE has legal authority to "subpoena witnesses, take testimony under oath, and compel the production of any relevant documents necessary to investigate the allegations of abuse, neglect, exploitation or abandonment." C.G.S. § 17b-452(a).
  - PSE has legal authority to obtain relevant protected health information from a HIPPA covered entity to investigate an allegation of abuse, neglect, exploitation or abandonment. See C.G.S. § 17b-454, 42 C.F.R. § 160.103

- Under the Graham-Leach-Bliley Act,<sup>46</sup> PSE has legal authority to obtain financial documentation from financial institutions.
- PSE has the authority to seek an order from the Superior Court to enjoin a caregiver from interfering with the Social Worker's ability to meet with the older person alone, if the older person consents to meeting with the Social Worker. See C.G.S. § 17b-452(a).
- PSE has the authority to disclose to law enforcement the older person's records if it is determined that the disclosure is necessary for the "health, safety and welfare" of the older person. See C.G.S. § 17b-452(a).
- PSE can seek an order from the Superior or Probate Court to enjoin the caregiver from interfering with the provision of necessary protective services that the older person has consented to receive. See C.G.S. § 17b-453(b).
- PSE can request, in extreme cases, an "assessment order" from the Probate Court. This is an ex parte order that allows PSE, with law enforcement's assistance, to enter the premises of the older person to conduct an assessment of the older individual when a caregiver or the older individual refuses access to PSE. See C.G.S. § 17b-464.
- When unable to provide for an older person's safety due to the apparent incapacity of the older person, PSE may petition the probate court to have a conservator of person or estate, or both, appointed when there is no able or willing family, friend, or legal representative to act on their behalf. See C.G.S. § 17b-456.
- **Actions PSE cannot take:**
  - PSE cannot remove an older adult from their home without the consent of the older person or their legal representative.
  - PSE cannot force an older adult to accept services or medical treatment without their consent or from their legal representative.
  - PSE cannot over-ride the decision of the older adult's legal representative.
  - PSE cannot limit who may visit the older adult in their home or in a facility.
  - Unless the Commissioner of the Department of Social Services has been appointed to serve as the older adult's conservator, a PSE representative cannot make any decisions on behalf of the older adult.

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<sup>46</sup> 15 U.S.C. §§ 6802(e)(8) and 6802(e)(3)(B)

## INVESTIGATIVE PROCEDURES

Law enforcement officers may encounter older adults in response to direct requests about their well-being, direct reports of crimes against them, or indirectly in relation to a non-abuse criminal matter. They may also receive requests to respond to skilled nursing facilities when a crime is suspected against an older adult.

When encountering an older adult during an investigation, be sure to consider their matter as you would someone of any age or ability first, followed by special considerations for aging and dependent adults.

- **Pre-investigation:**

- Well Checks:

Often police get called to check the welfare of an older individual who has not been in contact with friends or family for a period of time. These checks offer an opportunity to recognize, assess and intervene in cases where an older adult is suffering from abuse or neglect. When conducting well checks, it is essential to assess the mental status and living conditions of the older adult, and to determine what other individuals are involved (roommates, family, etc.). Assessing mobility and the ability to perform self-care tasks like cooking, using the bathroom and bathing, can also identify those who need additional supports. In cases where there are concerns, referrals to appropriate social service agencies or Protective Services for the Elderly can be made, and in some cases, a criminal investigation should be initiated. Police officers are mandated reporters of abuse and neglect of older adults.

- Chronic 911 callers:

Chronic calls for service from an individual or address will often warrant closer examination. Sometimes the older adult is experiencing frequent falls or injuries and is in need of a higher level of care. In these cases, referral to local social service provider and/or medical providers is appropriate. Some community providers offer no cost in-home consultations to reduce fall and injury risks. After doing a closer examination, you may find that the issues involve mental health, attention seeking, or loneliness. These cases can be challenging for emergency responders. Referrals to local mental health services, multidisciplinary case reviews, and involvement of family or social supports can help reduce chronic calls. In severe cases, probate court involvement may become necessary.

- Civil versus Criminal:

Many times, an officer's initial reaction is that an offense against an older adult is a civil matter. While sometimes true, many cases may in fact involve criminal violations. For example, removing large sums of money from an older adult's account for personal benefit, even if listed as a joint account holder, may constitute larceny. Even in cases where an older adult is reimbursed by a bank or financial institution for a loss, they still

may be the victim of forgery or identity theft. It is important to do a thorough initial evaluation, gather appropriate evidence and interview witnesses. In many of these cases, it is appropriate to consult a State's Attorney and/or your supervisor before making a final determination as to whether the matter is civil or criminal.

- Joint Investigations:

In most cases, the local or state police agency will have primary responsibility for investigation. Given the nature of many of these investigations, interagency cooperation is appropriate. This requires a team approach and coordination of effort from law enforcement, prosecutors, investigative entities, Department of Social Services, including Protective Services for the Elderly, local probate courts, disability organizations, banks, medical personnel, judicial entities, legal services and victim advocacy groups to ensure a thorough response to an older adult or person with a disability who experiences a crime.<sup>47</sup>

- Multidisciplinary Teams:

Multidisciplinary teams comprised of law enforcement, fire/emergency medical services, social services, local non-profits, healthcare providers, legal services, transportation, housing, mental health, and other governmental and local service agencies can assist in identifying older adults in need, coordinating resources and case follow up. The needs of older adults are complex and coordinating care is the most efficient way to provide services. Care must be taken to protect confidentiality and comply with statutory and regulatory requirements. A written waiver signed by the older adult or person with legal authority to sign can allow teams to discuss cases. Even without a signed release, teams can serve as referral networks and have discussion of general process, brainstorm and share knowledge and resources. These teams can also serve as valuable ways to share information and cross-train not just other members but also the public. If you want more information about, or are interested in creating, a multidisciplinary team, go to the *Multidisciplinary Teams* page of the Department of Justice website.<sup>48</sup>

- Investigation:

- Interviewing Tips.

Interviewing an older adult can present challenges. Some could have hearing issues that require adaptive conditions. While many remain mentally competent in older age, some will present with serious cognitive deficits and have memory issues. Do a baseline assessment of mental status before proceeding with an interview. If you are unsure of the cognitive status, you can consult with family members or medical providers to

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<sup>47</sup> Portions taken from: Illinois Protocol for Law Enforcement. Developed by Illinois Family Violence Council and Illinois Criminal Justice Information Authority.

<sup>48</sup> <https://www.justice.gov/elderjustice/mt>

determine the baseline. In cases where the older adult suffered a traumatic event, such as a sexual assault, consider a specialized interview such as one using the Forensic Experiential Trauma Interview (FETI) protocol. This interview protocol is trauma-sensitive and evidence-based. Investigators doing initial interviews should not ask trauma victims the “why” questions and let them tell the story in the order they recall it, which is not necessarily the chronological order preferred by many police officers.

While interviewing an older victim in many respects is similar to interviewing a victim of any age, there are some steps you can take to make the conversation as productive as possible. At times you may be interviewing an identified victim, at other times you may be conducting a general “Well Check” after reports of concern about an older adult. The following tips can be helpful in obtaining the most information in a comfortable manner for the older victim. **For more tips and checklists on interviewing an older adult, see the Department of Justice, EAGLE website.<sup>49</sup>**

- Effective interviewing helps to reduce the older adult’s anxiety during the interview process.
  - Interviewing at the correct place and time
    - Choose an interview location that is comfortable and safe for the older adult. For example: home, senior center, doctor’s office, coffee shop.
    - Ask the client and/or caregiver for timing tips to ensure the older adult is alert for your interview. For example: Is morning better than afternoon? Does a medication cause drowsiness or confusion after taking it?
    - Be aware of any barriers there might be for effective communication. For example: Does the older adult have their glasses/hearing aid/dentures on and working? Is the interview private, and away from the suspect’s hearing range?
  - Overcoming Ageism
    - Before beginning your interview, get in the right mind frame. Take a moment to clear your mind of stereotypes about older adults.
    - Like victims of other domestic violence, treat older victims of abuse with respect. Conduct the interviews with the gravity the situation deserves.
    - Know that people with memory problems can tell you what happened—especially if an event made an emotional impact.

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<sup>49</sup> <http://eagle.trea.usc.edu>

- Believe their story unless you have specific evidence to the contrary.
- Communication Problems
  - Due to the stress of an elder abuse situation, the older adult may have difficulty understanding an interviewer's question. The older adult may exhibit:
    - Confusion over terminology
    - Difficulty in hearing or seeing
    - Feigned comprehension, nodding without understanding
    - Shock from the overall situation of the abuse itself
    - Strong emotional feelings such as fear or anger
    - Diminished cognitive ability, such as memory problems (e.g., word finding, recall), or confusion
  - Consider recording interviews whenever possible
- Do's and Don'ts for Memory Loss
  - DO ask open-ended questions
  - DO speak slowly, using short sentences
  - DO ask about only one thing at a time
  - DO speak at eye level (authority can be intimidating to persons who feel vulnerable)
  - DO be patient – give them time to answer
  - DON'T correct them
  - DO believe someone if they say they've been abused
- Evidence Collection Tips.

Evidence collection in elder abuse cases is similar to other criminal investigations. Consider the type of crime and potential sources of evidence that may have relevance to the investigation.

- Photos can be powerful evidence for adult protective services and police to document injuries, scene conditions and evidence.
  - Photography tips:
    - Take a shot from different distances: overview, medium range and close-up
    - Ensure effective lighting
    - Photos of injuries should be taken with and without scale
    - Consider evidence placards to document items
    - Check photographs before clearing to ensure they depict desired target

- Consider creating a photo log that gives a brief description of each photo
- Digital evidence is present in almost every case.
  - Digital Evidence tips:
    - Remember that some data may be application based and not stored on a local device.
    - Consider immediately filing preservation requests for “cloud” data, cellular phone data or other data that may be deleted or lost.
    - Consider seizing phones, computers or other electronic devices that may have been used to facilitate communication, or that may contain photos, recordings or other records of evidence. These devices have become virtual biographers of daily life and, in addition to communication records, can also contain biometric and location data.
    - Try to obtain passcodes to unlock devices whenever possible.
    - A search warrant or consent will be necessary to analyze or review the data for a criminal investigation. When obtaining consent, you must consider co-owners and anyone else who may have an expectation of privacy.

**For more tips and checklists on evidence collection in elder abuse cases, see the Department of Justice, EAGLE website.<sup>50</sup>**

- Investigative Barriers.

There are many unique barriers when investigating crimes against older adults. Many older adults have a fear of being taken out of their house and forced into a nursing home or long-term care facility. Others struggle with family relationships and the desire for companionship. Even in cases when family members are stealing money, the older adult may not want a prosecution. Often, without the cooperation of the victim, a case cannot move forward, even if it was clearly a crime. Taking time to build rapport, learning about individual and institutional support systems the older adult has, and consulting a multidisciplinary team can help break down these barriers.

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<sup>50</sup> <http://eagle.trea.usc.edu>

- Special Considerations.

- **Opiates.**

Opiate drugs play an increasing role in healthcare. These drugs can be valuable for pain management, but have a high potential for abuse. Older adults may develop dependence and substance abuse disorders following legal prescription use. This can impair their memory, judgment and make them more prone to injuries such as falls. Additionally, older adults may be the target of theft or abuse by those seeking to steal their medication. This can occur from family members, neighbors and even contractors or visitors.

- **Death investigation.**

Law enforcement and EMS are commonly called to untimely deaths involving older adult victims. Many responders automatically tend to attribute older adult deaths to natural causes. It is important to keep an open mind and carefully examine each scene to ensure that the circumstances of the death match the reported information. Speak to witnesses, including the person who last saw the older adult alive. Gather the older person's appropriate medical history; take scene photographs, and interview witnesses and family members. Consideration should be given to overdose or accidental means, as well as foul play. A joint investigation should be done with the medical examiner's office to determine the cause and manner of death.

- **Domestic Violence.**

If the offender is a "family or household member" and the crime constitutes a "family violence crime," then the Connecticut family violence mandates will apply. Victims of domestic violence can apply for restraining orders and may access domestic violence victim services. A person employed as a caregiver (non-related) living with an older adult would not fall under the domestic violence mandate. However, officers may still make arrests in these situations based on probable cause.

- **Arrest:**

In any phase of the reporting or investigative process, sworn law enforcement officers should arrest in any instance where probable cause exists that a felony has been committed, a weapon has been used, injury has been caused to the victim, and/or the offense is committed in the presence of the sworn law enforcement officer.

## **ADVANCE HEALTH CARE DIRECTIVES:**

### **Living Will, Appointment of Health Care Representative, Designation of Conservator of Person, and Document of Anatomical Gift**

Advance health care directives are used to provide directions about future health care decisions in case the person loses the capacity to make or the ability to express those decisions. Advance directives and end-of-life care decisions raise complex issues of civil rights, ethics, health care policy, medical malpractice, and religion that are far beyond the scope of this Guide. However, advance directives and elder abuse sometimes intersect in ways that may involve crimes.

#### **Key Definitions and facts:**

- **Advance Health Care Directives**. In Connecticut, Advance Health Care Directives are comprised of four documents that individuals can use to state decisions about future health care if they lose the capacity to make or the ability to express those decisions themselves. These documents include:
  - **Living Will**: A living will states whether the individual wishes to have life support in the event he or she is in the end stage of a terminal illness, or is in a coma or vegetative state and is not likely to recover. It instructs the representative, or some other decision-maker (such as a guardian/conservator), or health care providers about the type of care (including emergency treatment) that the individual wants or does not want.
  - **Appointment of a Health Care Representative**: The Appointment of a Health Care Representative is used by a person (the principal) to give someone else (the representative) legal authority to make health care decisions for the principal.
  - **Designation of Conservator of Person**: The Designation of Conservator of Person provides the name(s) of the person(s) whom the principal wishes to be appointed by a probate court in the event the principal needs a Conservator of Person in the future. While this designation is valuable information regarding the person's wishes should he/she become incapacitated, the person named by this document has no legal authority until he or she is formally appointed as conservator by the probate court.
  - **Document of Anatomical Gift**: The Document of Anatomical Gift states whether the individual wishes to donate organs or tissues upon death and for what purpose, or whether the individual chooses not to donate organs.

- A person must have appropriate decision-making capacity to make an advance health care directive.
- While the use of written advance directives to establish a person's intent is preferred, courts generally have said that verbal and other written evidence of a person's wishes regarding health care is acceptable.
- In Connecticut, the appointment of a health care representative must be in writing and witnessed by two people.
- People have the right to change their minds about who can make decisions for them and what treatment they do or do not want. If the principal wishes to change their health care representative, the change must be in writing and witnessed by two people.
- Generally, the advance directive will indicate when it should become effective. In Connecticut, when the attending physician determines that the principal is not able to understand and appreciate the consequences of health care decisions and unable to reach and communicate an informed decision regarding treatment, the health care representative is authorized to make decisions for the principal.
- A health care representative must make decisions that are consistent with the principal's instructions. If instructions are not clear, the health care representative's decisions should be consistent with what the principal would likely do or, if that is not known, should be in the principal's best interest.

### **Relevance to Elder Abuse**

- Elder abuse may occur before the advance directive is signed:
  - A person who lacks appropriate decision-making capacity to make an advance directive may be coerced, persuaded, threatened, or tricked into signing.
  - A person with decision-making capacity may sign the advance directive because of undue influence, duress, fraud, or misrepresentation.
  - Someone may prepare an advance directive that does not reflect the person's wishes.
  - The signature on an advance directive may be forged.
- Providing health care treatment to a person whose advance directive indicates that such treatment is not wanted, could be considered physical abuse. Failure to provide or arrange for treatment for a person whose advance directive indicates that such treatment is desired could be considered neglect.
- A health care representative might make decisions that are contrary to the older person's wishes. A health care representative may make decisions that the advance directive or state law does not authorize the representative to make.

- A health care representative may make treatment decisions that are inconsistent with the guidance provided in an advance directive (or otherwise known) and are not in the older person's best interest. Motives may include:
  - Hastening the older person's death to receive an inheritance or end the burden of acting as a caregiver.
  - Saving money.
  - Preventing changes to the status quo, such as having to move out of the older person's home or losing other financial support provided by the older person.
  - Preventing family members, Protective Services for the Elderly, or law enforcement from having access to the older person.
  - Covering up evidence of a crime.
- Family members may disagree about whom the health care representative is, what health care instructions were provided, or what treatment should be given. These disputes may involve allegations of elder abuse by one family member against another.
- The state may have costs due to the abuse or neglect. For example, the failure to provide treatment desired by the older person may lead to the need for long-term care paid by Medicaid. Consider whether the perpetrator's actions in causing that result may be a crime.

### **Actions to Consider**

- The circumstances surrounding the signing of an advance directive or the representative's activities or decisions may violate state laws relative to:

- Elder abuse
- Financial exploitation
- Forgery
- Fraud (e.g., credit card, tax, or Medicaid)
- Identity theft
- Larceny
- Manslaughter
- Murder
- Neglect
- Theft

- In Connecticut, to be valid, an advance health care directive must be witnessed by two people. It does not have to be notarized, but having the witnesses' statement notarized is recommended. A health care representative named in a legally defective advance directive may not have legal authority to make decisions. However, the defective document may still provide evidence of the person's wishes.
- Investigate further if a person claiming to be a health care representative cannot or will not produce the advance directive, if the document does not name that person as a health care representative, or if the document does not appear to authorize the decisions in question. If it is not clear whether an advance directive names that person as health care representative or authorizes the decisions in question, ask the prosecutor's office for an opinion.
- If the older person has died, consider whether death may have been caused or hastened by actions or decisions that were contrary to the older person's wishes.
- Encourage the victim or concerned individual to seek legal assistance, per departmental policy.
  - Civil law remedies may stop unwanted care, lead to provision of desired care, or lead to financial compensation for physical and emotional harm.
- Make a report to Protective Services for the Elderly.

## CAPACITY, CONSENT AND UNDUE INFLUENCE

The legal concepts of capacity, consent and undue influence are critical to consider in cases of elder abuse. While not all victims of elder abuse have cognitive impairments, older adults with diminished capacity and competency due to organic medical conditions such as dementia are more susceptible to abuse, neglect and financial exploitation. Lack of consent is an element of many crimes, such as theft and sexual assault. Older adults may be unable to give valid consent because they do not have decision-making capacity or may agree to transactions that are not in their best interest because they are victims of undue influence.

### **Capacity (sometimes referred to as competency)**

Capacity is both a legal concept and a medical concept.

- Medical capacity. As a medical term, capacity is defined as one's ability to perform mental tasks including remembering, reasoning, and understanding the repercussions of one's actions. If impaired in these abilities, one can be susceptible to abuse, in particular financial exploitation.
- Legal capacity. Different types of tasks require different levels of legal capacity. Legal capacity includes:
  - testamentary capacity (having the cognitive ability to make or alter a valid will);
  - the capacity to contract;
  - the capacity to give medical consent;
  - the capacity to testify; and
  - the capacity to care for one's self and one's finances.
- Just because a person is old or has an illness or condition that affects cognitive abilities does not mean the person lacks capacity. For example, a person in the early to middle stages of dementia may have capacity to make some or all decisions. Capacity can be variable, with the older adult able to understand the consequences of his or her actions one day while unable to do so the next.

Capacity determinations call into play the competing goals of preserving autonomy and promoting protection. The law presumes that adults have capacity, unless a court decides differently and appoints a conservator to make decisions for the adult.

### **Consent**

Consent, as used in the law, generally means a decision to do something or to allow something to happen. Consent is an act of reasoning accompanied with deliberation. Whether an older adult consented to an action is often an important consideration in elder abuse cases, particularly financial exploitation. Consent must be given freely and voluntarily without the influence of threats, force, duress or undue influence.

## **Undue Influence**

Undue influence is a common component of elder abuse and financial exploitation. Undue influence is a legal phrase used to describe the exertion of excessive pressure or persuasion by a dominant person over someone who is vulnerable to pressure. It includes coercion, manipulation and trickery. Psychologist Margaret Singer defined undue influence as “when people use their role and power to exploit the trust, dependency, and fear of others. They use this power to deceptively gain control over the decision-making of the second person.”

A victim of undue influence often will not recognize what is happening and may side with the perpetrator or act in ways contrary to their best interests out of affection or fear. A person who has decision-making capacity can be unduly influenced, but it is easier to commit undue influence on someone who has diminished capacity. Even if the victim has capacity, a decision made as a result of undue influence is neither knowing nor voluntary.

## **Relevance to Elder Abuse**

In elder abuse cases, it is essential for law enforcement to consider whether the victim had the ability to understand and consent to the actions taken. Often family, friends, caregivers and others take advantage of older adults who are unable to fully understand the consequences of consent or undue influence.

## **Actions to Consider**

- Consider whether the alleged victim was coerced, cajoled or tricked into making a decision or taking an action that was not what they wanted or not in their best interest.
- Consider whether the victim had capacity to make decisions, sign documents or understand the consequences of the actions taken.
- Determine whether the victim has had a capacity assessment or whether one is necessary. Skilled clinicians can retroactively assess capacity.
  - The Mini-Mental Status Exam (MMSE or mini-mental) that is frequently used by social workers and medical providers is a useful screening tool to measure a person’s memory, attention and orientation. There are, however, more in-depth cognitive tests that may be needed to determine an individual’s decision-making capacity.
  - Ideally, a capacity assessment should be conducted by a medical or mental health professional that understands how to conduct assessments, knows the pros and cons of existing assessment instruments, and has experience conducting assessments.

- Do not limit an investigation to the issue of capacity. Consider whether the alleged victim's decisions may have resulted from coercion, fraud, intimidation, misrepresentation, threats, or undue influence even if the person has full capacity.
- Make a report to Protective Services for the Elderly.

## CONSERVATORS AND GUARDIANS OF PERSONS WITH INTELLECTUAL DISABILITY

A court may appoint someone to make personal and/or financial decisions for a person if a probate court judge decides that the person lacks decision-making capacity. Generally, persons who are determined by the court to lack the ability to make decisions are appointed a “conservator,” while individuals with intellectual disabilities may be appointed a “guardian.” Sometimes, however, conservators or guardians misuse their legal authority in ways that result in financial exploitation or neglect of the incapacitated person.

### **Key Definitions and facts:**

- **Types of Conservatorship.** In Connecticut, there are two types of conservators:
  - **Conservator of the Person.** One or more individuals appointed by the probate court to make personal decisions for a conserved person. Personal decisions may include decisions about medical treatment, where the conserved person lives, and the authorization of the services necessary to provide for the person's care, comfort, and maintenance.
  - **Conservator of the Estate.** One or more individuals appointed by the probate court to make financial decisions for the conserved person. The conservator of estate may be responsible for managing the conserved person's finances for the conserved person's benefit, paying bills, and applying for assistance, if necessary.
- **Guardians of Persons with Intellectual Disability.**
  - **Guardian.** A person appointed by a probate court for an adult with intellectual disabilities, who does not have the ability to meet essential needs for physical health and safety, to make decisions about such needs.
  - A person with intellectual disabilities may also have a conservator of the estate to manage financial affairs.
- **Scope of the Conservator/Guardian's Authority.**
  - To determine the scope of the authority granted to the conservator and/or guardian, ask for a copy of the decree issued by the probate court. This document will provide a listing of the specific authorities that the conservator and/or guardian has over the individual. The authorities granted may be limited or full (plenary).

- A person that has a conservator and/or guardian loses the right to make the decisions that the court has authorized the conservator/guardian to make, but only those rights.
- **Methods of Appointment.** In Connecticut, there are several different ways that a conservator can be appointed for an individual. All conservators are granted specific authority, but the way in which the conservator was appointed may affect the term of the appointment or who has the right to change or revoke the appointment.
  - Involuntary Conservators.
    - Any third party that believes that an individual lacks decision-making capacity may petition the probate court for the appointment of a conservator of person, estate, or both.
    - Typically the individual does not agree to the appointment or cannot articulate their need for a conservator.
    - Medical evidence of incapacity is required by statute, and a probate judge may also use other evidence of impairment to determine if someone is capable of making decisions about their personal needs or financial affairs.
    - Only the probate court can remove or replace an involuntarily appointed conservator.
  - Voluntary conservators.
    - Any adult can ask the probate court to appoint a voluntary conservator for his/herself without the court making a finding of incapacity.
    - A voluntary conservator may be removed from his or her position by the conservated person upon thirty days written notice to the probate court that appointed the voluntary conservator.
  - Temporary conservators
    - Anyone can request the appointment of a temporary conservator or person or both when there are emergency circumstances where “immediate and irreparable harm” will occur if a conservator is not appointed.

- A temporary conservatorship is only valid for 30 days, but may be extended for a maximum of 60 days.
  - A temporary conservatorship automatically expires if not extended or an involuntary conservatorship application is not subsequently filed.
  
- Connecticut law uses the terms “conserved person” and “protected person” for the person who needs help making decisions.
  
- A conservator can be:
  - A family member or friend.
  - A professional (e.g., a lawyer or a trust officer).
  - A municipal or state official, corporation, limited liability company partnership or other entity.
    - Hospitals, nursing homes and residential care homes cannot be appointed as conservators.
  
- Conservators may charge a fee for their services. The fee must be:
  - Reasonable according to state law and court rules.
  - Approved by the probate court.
  
- Conservators must keep careful records of their services and time spent working on behalf of the conserved person. Conservators are required to account for their activities to the probate court.
  
- The court may require the conservator to post a bond to protect the conserved person’s assets.
  
- Connecticut law requires that a conservatorship be the **least restrictive method of helping the conserved person.**
  
- A conservator must notify the court if a person has regained capacity.
  
- A conservator has a legal duty to act as a fiduciary. This means, generally, that the conservator must act in a completely trustworthy manner. In making decisions for the conserved person, the conservator must seek to determine the conserved person’s current preferences. If the conserved person cannot express current preferences, the conservator must use substituted judgment to determine what the conserved person’s preferences would have been if the conserved person currently had capacity. Only if the conserved person’s preferences cannot be ascertained or

adherence to them would cause substantial harm may the conservator make a decision based on the “best interest” of the conserved person.

- The probate courts have a responsibility to monitor the actions of the conservators and/or guardians they have appointed. Monitoring practices include:
  - Requiring an initial inventory of the conserved person’s assets.
  - Filing of periodic financial reports.
  - Requiring specific permission for certain actions, such as moving a conserved person to a nursing home or selling the conserved person’s home.
  - Filing of an annual report to the probate court regarding the conserved person’s condition and continued need for a conservator.
  - Probate courts can address concerns brought to the court’s attention by the conservator, guardian or other parties.

### **Relevance to Elder Abuse**

The appointment of a conservator or guardian may be necessary to stop elder abuse. For example, if an agent is abusing the authority given by a power of attorney and the principal has lost the capacity to revoke the power of attorney, a judge may need to appoint a conservator to monitor the agent or to act instead of the agent. The appointment of a conservator can be a useful legal remedy that can be used to ensure that the older individual can continue to live in the community safely and allow the older person to maintain a level of independence. There are times, however, when a conservator or guardian may take actions that are contrary to the protected person’s wishes or not in the protected person’s best interest. For example:

- A conservator’s misuse of legal authority may result in financial exploitation or neglect.
  - The conservator exceeds the authority given by the court (e.g., makes health care decisions when not given that authority).
  - The conservator self-deals (e.g., pays his/her own bills with the conserved person’s money or sells the conserved person’s house below market rate to a relative).
  - The conservator acts contrary to the conserved person’s best interest (e.g., because of financial motives, the conservator fails to pay for adequate health care services, isolates the conserved person from

family or friends, or fails to ask the court to end the conservatorship when the conservated person regains capacity).

- The conservator may relocate the older person out of state, without permission of the probate court, to avoid the jurisdiction of the probate court.

### **Actions to Consider**

- Consider whether a conservator and/or guardian's breach of fiduciary duty violates local, state, or federal laws relative to:
  - Elder abuse
  - Embezzlement
  - Financial exploitation
  - Forgery
  - Fraud (e.g., credit card, tax, or Medicaid)
  - Larceny
  - Money laundering
  - Neglect
  - Theft
- Ask the person claiming to be a conservator or guardian to produce a probate court decree, order or certificate of appointment. Investigate further if that person cannot or will not produce a court document, if the document does not name that person as the conservator, or if the document does not appear to allow the actions in question. If it is not clear whether the document names that person as conservator or allows the actions in question, contact the probate court.
- Contact the probate court that appointed the conservator to take steps to stop the conservator from dissipating remaining assets.
- Obtain and analyze any inventory or reports filed by the conservator as evidence; determine whether documents have been submitted when required.
- Consider whether the conservator or guardian is in a position to do this to others.
- Consider notifying the probate court if a conservator or guardian is under criminal investigation.

- If the conservated person has died, consider whether death may have been caused or hastened by actions or inactions of the conservator or guardian.
- Encourage the conservated person or a concerned individual to seek legal assistance, per departmental policy.
  - Abuse or misuse of authority by a conservator is a civil problem too. Civil law remedies may stop the guardian/conservator from exploiting or neglecting the conservated person or may lead to recovery of exploited money and property.
- Make a report to Protective Services for the Elderly.

## LONG-TERM CARE FACILITIES:

### Nursing Homes and Residential Care Homes

Residents of long-term care facilities are vulnerable to physical abuse (including sexual abuse), neglect, and financial exploitation by staff, family members, visitors to the facility, or other residents. Elder abuse in a care facility may be a crime, just as it is in someone's house or apartment. The failure by mandated reporters to report abuse that has occurred in a facility also may be a crime.

#### Key Definitions and Facts

- **Long-term care facility.** Long-term care facility is a general term that, under Connecticut law, includes two categories:
  - Nursing homes (also known as skilled nursing facilities).
    - Nursing homes provide skilled nursing and medical care, rehabilitation services, custodial care, and other health-related services.
    - Nursing homes are subject to both federal and state laws and regulations.
  - Residential care homes (also known as rest homes or homes for the aged).
    - Many types of facilities are classified as residential care homes. Residential care homes provide supportive services and non-medical care, which may include help with managing and taking medications.
    - Residential care homes are governed by state laws and regulations.
- Unlicensed facilities may exist. Typically, such facilities do not have a license because either the facility does not have enough beds to trigger the licensure requirement in local or state law, or the facility is operating illegally.
- Connecticut recently enacted a law requiring that all long-term care facilities conduct background checks of prospective employees. Findings of health care fraud, neglect or abuse of patients, or convictions for various offenses against the elderly, serve to disqualify potential employees.<sup>51</sup>
- Besides local law enforcement, a number of agencies are involved in preventing, detecting, investigating, prosecuting, or otherwise remedying abuse, neglect, or financial exploitation of residents of nursing homes and other care facilities. These include:

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<sup>51</sup> C.G.S. § 19a-491c

- Other Law Enforcement. The Connecticut Office of the Chief State's Attorney, U.S. Department of Justice, and federal U.S. Attorneys' Offices may prosecute or bring civil lawsuits related to elder abuse in nursing homes or other facilities.
- The Long-term Care Ombudsman Program (LTCOP). The LTCOP is a state program that advocates for and seeks to protect the quality of life of residents of long-term care facilities. The LTCOP has established a “nursing home bill of rights.”
- Protective Services for the Elderly (PSE). PSE is responsible for receiving reports of and investigating suspected physical abuse, neglect, or financial exploitation of older adults (individuals over the age of 60) and devising a plan of care to protect the older adult and his or her self-determination.
- Department of Public Health.
  - Licenses and regulates nursing homes and residential care homes.
  - Monitors a facility's compliance with federal and state laws, and regulations.
- Medicaid Fraud Control Unit. A unit of state government that prosecutes fraud and resident abuse or neglect committed in long-term care facilities that receive funding from Medicaid.

### **Relevance to Elder Abuse**

- Residents of nursing homes and other types of long-term care facilities can be at an increased risk of physical and sexual abuse, neglect, financial exploitation, and emotional/psychological abuse by:
  - Facility management and staff.
  - Visitors to the facility, including:
    - Contractors or other workers.
    - Residents' own family members or guests.
    - Family members or guests of other residents.
    - Other residents.
- Elder abuse may occur in numerous ways in a long-term care facility. Examples include:
  - Physical abuse: broken bones, bruises, burns, lacerations, or other physical injuries resulting from improper handling during bathing, other care, or

transfers from one place to another; hitting, kicking, punching, or shoving; and the inappropriate use of chemical or physical restraints.

- Sexual abuse: rape, nonconsensual or unwanted touching, and improper touching during bathing or medical treatment.
- Emotional/psychological abuse: belittling, humiliating, intimidating, teasing, threatening, or yelling at a resident.
- Neglect: the failure to provide or the inadequate provision of food, medication, treatment, basic care, and supervision may result in amputations, bed sores (also known as pressure sores or decubitus ulcers), dehydration, malnutrition, other medical problems, and death. Nurses or other staff may dilute or divert residents' pain medications to sell or for personal use.
- Financial exploitation: stealing a resident's belongings, benefit checks and spending money, credit cards, or identity.
- State law requires facility management and staff to report suspected or known elder abuse or acts that constitute criminal activity to the state Department of Social Services, Protective Services for the Elderly within 72 hours<sup>52</sup>.

### **Actions to Consider**

- Physical abuse, neglect, or financial exploitation occurring in a long-term care facility may violate local, state, or federal laws regarding:
  - Elder abuse
    - Physical, sexual, psychological, neglect or financial exploitation
  - Forgery
  - Fraud (e.g., credit card, tax, or Medicaid)
  - Identity theft
  - Larceny
  - Murder
  - Manslaughter
  - Theft
- Determine whether you have jurisdiction over the facility and whether other law enforcement agencies have concurrent jurisdiction.

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<sup>52</sup> Mandated Reporter Form for Long-Term Care Facilities <https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Social-Work-Services/W-410.pdf?la=en>. (see Appendix for hardcopy)

- If the resident has died, consider whether their death may have been caused or hastened by actions or inactions of facility staff or others.
- Consider whether the alleged perpetrator is in a position to victimize other residents and whether other residents may have been victimized already.
  - The Department of Public Health maintains a criminal history and patient abuse background search program. A facility's failure to conduct criminal background checks on its employees or contractors may violate state law requiring criminal background checks.<sup>53</sup>
- The facility management and staff are required by law to report suspected or known elder abuse or criminal activity. Determine whether such reports were made.
  - If facility management or staff say they could not report suspected crime or cannot provide requested evidence because they must protect a resident's "protected health information" under the federal Health Insurance Portability and Accountability Act (HIPAA), seek guidance from the Office of the Chief State's Attorney, the attorney for the applicable state, or town agency.
- Encourage the resident or concerned individuals to seek legal assistance, per departmental policy.
  - Civil lawyers may help residents or family members bring lawsuits against nursing homes or other facilities for failure to provide care or to protect residents from abuse, neglect, or exploitation.
- Make a report to Protective Services for the Elderly, if appropriate.
- If it appears the resident would benefit from having an advocate, provide contact information for the Long-term Care Ombudsman Program.

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<sup>53</sup> C.G.S. § 19a-491c

## MEDICAID PLANNING

Medicaid planning is a term used for the process of spending down assets to become eligible for Medicaid payments of long-term care costs. Medicaid planning is legal, but the circumstances surrounding the process may involve elder abuse. Also, the need for Medicaid benefits may be an indicator of financial exploitation.

### **Key Definitions and Facts**

- **Medicaid** is a health and medical services program for certain individuals. Adults who do not have dependent children may be covered if they: (1) are over age 65, or blind, or disabled; and (2) have low income and limited assets.<sup>54</sup>
  - In addition, in Connecticut, other adults who do not fit within a certain category (for example, under age 65 or disabled) may also qualify for Medicaid, but the adult must meet certain conditions and have limited income.
- The Medicaid program is governed by federal law, but each state establishes its own eligibility guidelines and administers its own program.
  - In Connecticut, Medicaid is also called HUSKY.
- Medicaid pays for long-term care services provided to eligible individuals.
- Long-term care is very expensive. Many people cannot afford it, but they may have too much income or too many assets to qualify for Medicaid.
  - Federal law allows individuals to spend down their assets in certain ways so that they can qualify for Medicaid. This is commonly referred to as Medicaid planning.
    - The rules for Medicaid planning are extremely complicated; it is not necessary to know these rules to understand the connection between Medicaid planning and elder abuse, but if you want more information contact an elder law attorney.

### **Relevance to Elder Abuse**

- Even though Medicaid planning is legal, the circumstances surrounding it may involve financial exploitation by an older person's relatives who want to preserve assets for themselves or by other individuals. Examples include:

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<sup>54</sup> Note: Medicaid and Medicare are two different health care programs. Medicare, which is the federal health insurance for person over 65 or disabled, provides limited skilled nursing care in a facility, some rehabilitation care, physician's services, durable medical equipment and some preventative care.

- A person without appropriate decision-making capacity is coerced, persuaded, threatened, or tricked into engaging in Medicaid planning.
- A person who has decision-making capacity participates in the process because of undue influence, duress, fraud, or misrepresentation.
- A lawyer prepares Medicaid planning documents at the request of the older person's relative without speaking to the older person to ensure that he or she wants to participate in Medicaid planning and has appropriate decision-making capacity.
- The older person's signature is forged on documents used for Medicaid planning.
- A conservator, guardian, agent under a power of attorney, or trustee of a trust engages in Medicaid planning without having legal authority to do so, or makes decisions that do not reflect the older person's wishes or are not in the older person's best interest.
- A lawyer or other person (fiduciary) misappropriates the older person's assets under the guise of Medicaid planning.
- Family members may disagree about whether the older adult should move into a nursing home or whether Medicaid planning should occur. These disputes may involve allegations of elder abuse by one family member against another.
- A person applying for Medicaid who seemingly had adequate assets to pay for long-term care (at least for a while) may be a victim of financial exploitation.
- The Department of Social Services may deny benefits to a victimized older adult because the "spend down" of assets violated the Medicaid rules. For example, if the older adult gives his or her house to an adult child as a result of threats, DSS may deny benefits because the supposed gift occurred too near the time of the application for Medicaid benefits. Medicaid can look back for any transfers of assets (gifts, cash), etc. for five years prior to the date of application. DSS can impose a penalty period against the older adult for transfers of assets. The older adult may then try to get a "hardship exemption" by claiming that he or she should not be penalized for being a victim of financial exploitation. In deciding whether to grant the hardship exemption, DSS will likely consider whether there was an investigation by Protective Services for the Elderly, law enforcement, or both agencies, and whether the perpetrator was prosecuted.

### **Actions to Consider**

- The circumstances surrounding the preparation or signing of documents for Medicaid planning purposes may constitute a local, state, or federal crime relative to:

- Conspiracy
- Elder abuse
- Financial exploitation
- Forgery
- Identity theft
- Larceny
- Medicaid fraud
- Theft
- Consider whether the alleged perpetrator is in a position (e.g., a caregiver, conservator, guardian, or lawyer) to victimize other older adults.
- Encourage the victim to seek legal assistance, per departmental policy.
- A civil lawyer can help with recovering money or property from an exploiter.
- A civil lawyer can assist a victim in obtaining a hardship exemption if DSS denies benefits.
- Make a report to Protective Services for the Elderly.

## POWER OF ATTORNEY

A power of attorney (POA) is a legal document that may be used to help plan for the possible loss of capacity because it gives someone authority to act for the person who made the document. Unfortunately, it can also be misused to financially exploit an older person.

### **Key Definitions and Facts**

- **Power of Attorney**. A power of attorney is a legal document used by someone (the principal) to give another person (the agent) the authority to act for the principal. The probate court is not involved in the drafting or execution of a power of attorney. Those named as the agent have a fiduciary duty to act in the best interests of the principal.
  - There are two broad categories of power of attorney:
    - Specific: an agent is given authority to take a specific action on behalf of the principal, such as sign documents at a real estate closing for a principal who is out of town.
    - General: an agent is given broad authority that includes making decisions that carry out the principal's wishes or directions.
  - A principal must have decision-making capacity to sign a power of attorney.
  - An agent's authority ends when the principal revokes that authority or when the principal dies. Actions that the agent takes before learning of the principal's revocation of the power of attorney or death generally are legally effective.
  - Connecticut law presumes that a power of attorney is durable unless the document indicates otherwise. A durable power of attorney is a general power of attorney that stays in effect even if the principal loses decision-making capacity. Durability is relevant to the question of whether the agent has legal authority to take the actions in question. The rest of this section will use "POA" to mean a power of attorney that is durable.
  - The purpose of the POA is to allow an agent, chosen by the principal, to carry out the principal's wishes in the event that the principal is unable to act for themselves. Therefore, a POA is usually written very broadly and gives the agent a lot of authority.

- Connecticut law requires that a POA addresses financial matters and a separate legal document, a health care directive (HCD), covers health care decisions. Each document has separate requirements.
- A POA becomes effective when the principal signs it, although that does not mean the agent has to start acting on behalf of the principal immediately. The principal may withhold the POA from the agent until he or she wants the agent to act on the principal's behalf.
- A springing POA, however, becomes effective when a later time or event occurs as specified in the POA. For example, a POA might say that it becomes effective when the principal reaches a certain age, if the principal is hospitalized, or if two doctors decide that the principal has lost decision-making capacity.
- Connecticut law requires that a POA must be signed and dated by the principal and two witnesses. The POA does not need be notarized, but it is highly advisable to have the POA notarized. A POA does not have to be filed in the public records. A POA that does not comply with state law may not be legally effective, meaning that the agent does not have authority to act on the principal's behalf.
- An agent has a legal duty to act as a fiduciary. This means that the agent must act in a totally trustworthy manner and make decisions that are consistent with decisions that the principal made previously or that are in the principal's best interest.

### **Relevance to Elder Abuse**

- An agent can misuse a POA to financially exploit the principal. This can occur in several ways.
  - Before the POA is signed:
    - A principal without appropriate decision-making capacity is persuaded, coerced, induced, threatened, or tricked into signing a POA.
    - A principal who has decision-making capacity signs the POA because of undue influence, duress, fraud, or misrepresentation.

- An agent or someone helping the agent (e.g., a lawyer) prepares a POA that does not reflect the principal's wishes. For example, a lawyer may have prepared a POA at the request of the older person's relative without ever talking to the older person to determine if he or she wants the POA and has the capacity to make that decision.
- A principal's signature is forged on the power of attorney document.
- After the POA is signed:
  - An agent exceeds the authority given. For example, an agent makes monetary gifts to themselves or others when not given that authority.
  - An agent engages in self-dealing. For example, an agent pays his or her own bills with the principal's money or co-mingles the principal's funds with his or her own.
  - An agent's actions conflict with the principal's expectations. For example, an agent has authority to make gifts, but does so in a way that undoes or undermines the principal's plan for giving away assets after the principal's death.

### **Actions to Consider**

- An agent who commits POA abuse may have violated local, state, or federal laws relative to:
  - Elder abuse
  - Embezzlement
  - False instrument
  - Financial exploitation
  - Forgery
  - Fraud
  - Identity theft
  - Larceny
  - Money laundering
  - Theft
- Investigate further if the alleged agent cannot or will not produce the POA, if the document does not name that person as the agent, or if the document does not appear to allow the decisions in question. If it is not clear whether the POA names

that person as the agent, was legally effective, or authorizes the actions in question, ask the prosecutor's office for an opinion.

- If allowed by law, initiate an action to freeze the principal's assets or take other steps to stop the agent from dissipating any remaining assets. In Connecticut, the Probate Court should be petitioned for the POA to file "accounting" of how monies have been spent on behalf of the principal.
- If the principal has died, consider whether death may have been caused or hastened by an agent who may benefit financially.
- Consider whether there are other victims, such as the intended recipients named in the principal's will.
- Consider whether the agent is in a position (e.g., a caregiver or a lawyer) to victimize other people.
- Encourage the principal to seek legal assistance, per departmental policy.
- Abuse of a POA abuse is also a civil legal problem. Civil law remedies may stop the agent from exploiting the older person even more. These remedies also may result in recovery of exploited money or property.
- Make a report to Protective Services for the Elderly.

## RESOURCES

ALZHEIMER'S ASSOCIATION. The Alzheimer's Association assists individuals and their caregivers with matters related to all types of dementias and runs the Safe Return program for people with dementia who wander.

Phone: 1-800-272-3900.

ATTORNEY GENERAL – STATE OF CT. Chief legal officer of the State.

Address: 55 Elm Street Hartford, CT. Phone: 860-808-5318. Website:

<http://www.ctattorneygeneral.org>

CHIEF STATE'S ATTORNEY. Responsible for the statewide administrative functions of the Division of Criminal Justice. The Office of the Chief State's Attorney includes specialized units for the investigation and prosecution of certain criminal matters, including elder abuse.

Address: 300 Corporate Place Rocky Hill, CT. Phone: 860-258-5800. Website:

<https://portal.ct.gov/DCJ/About-Us/About-Us/Office-of-the-Chief-States-Attorney>

CONNECTICUT AREA AGENCIES ON AGING. The five regional Area Agencies on Aging are private nonprofit organizations that serve the needs of older persons. As mandated and funded by the Older Americans Act, they provide funds for community based services for adults 60 years of age and older as well as advocacy, case management, program development, community education, caregiver services and other services that benefit the aging population.

Phone: 1-800-994-9422 (statewide)

Office locations:

Agency	Main Office	Towns Served
<b>Senior Resources (Eastern)</b> (860) 887-3561 <a href="http://www.seniorresourcesec.org">http://www.seniorresourcesec.org</a>	Norwich	Ashford, Bozrah, Brooklyn, Canterbury, Chaplin, Chester, Clinton, Colchester, Columbia, Coventry, Cromwell, Deep River, Durham, Eastford, East Haddam, East Hampton, East Lyme, Essex, Franklin, Griswold, Groton, Haddam, Hampton, Killingly, Killingworth, Lebanon, Lisbon, Lyme, Mansfield, Middlefield, Middletown, Montville, New London, North Stonington, Norwich, Old Lyme, Old Saybrook, Plainfield, Pomfret, Portland, Preston, Putnam, Salem, Scotland, Sprague, Sterling, Stonington, Thompson, Union, Voluntown, Waterford, Westbrook,

		Willington, Windham, and Woodstock.
<b>North Central Area Agency on Aging</b>  (860) 724-6443 <a href="http://www.ncaaact.org">http://www.ncaaact.org</a>	Hartford	Andover, Avon, Berlin, Bloomfield, Bolton, Bristol, Burlington, Canton, East Granby, East Hartford, East Windsor, Ellington, Enfield, Farmington, Glastonbury, Granby, Hartford, Hartland, Hebron, Manchester, Marlborough, New Britain, Newington, Plainville, Plymouth, Rocky Hill, Simsbury, Somers, Southington, South Windsor, Stafford, Suffield, Tolland, Vernon, West Hartford, Wethersfield, Windsor, and Windsor Locks.
<b>South Central CT Agency on Aging</b>  (203) 785-8533 <a href="http://www.agencyonaging-scc.org">http://www.agencyonaging-scc.org</a>	New Haven	Ansonia, Bethany, Branford, Derby, East Haven, Guilford, Hamden, Madison, Meriden, Milford, New Haven, North Branford, North Haven, Orange, Oxford, Seymour, Shelton, Wallingford, West Haven, and Woodbridge.
<b>Southwestern CT Agency on Aging</b>  (203) 333-9288 <a href="http://www.swcaa.org">http://www.swcaa.org</a>	Bridgeport	Bridgeport, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, Norwalk, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton.
<b>Western CT Area Agency on Aging</b>  (203) 757-5449 <a href="http://www.wcaaa.org">http://www.wcaaa.org</a>	Waterbury	Barkhamsted, Beacon Falls, Bethel, Bethlehem, Bridgewater, Brookfield, Canaan, Cheshire, Colebrook, Cornwall, Danbury, Goshen, Harwinton, Kent, Litchfield, Middlebury, Morris, Naugatuck, New Fairfield, New Hartford, New Milford, Newtown, Norfolk, North Canaan, Prospect, Redding, Ridgefield, Roxbury, Salisbury, Sharon, Sherman, Southbury, Thomaston, Torrington,

		Warren, Washington, Waterbury, and Woodbury.
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**CONSUMER LAW PROJECT FOR ELDERS (CLPE)**. A project of Connecticut Legal Services, Inc., the CLPE provides free legal advice and assistance to Connecticut seniors who have consumer problems, including financial exploitation.

Phone: 1-800-296-1467

**EAGLE**. Elder Abuse Guide for Law Enforcement, U.S. Department of Justice.

Website: <http://eagle.trea.usc.edu>.

**LEGAL SERVICES (LEGAL AID): ELDER LAW**. The Older Americans Act funds Area Agencies on Aging who contract with Legal Services (Legal Aid) organizations in Connecticut to provide free legal assistance for civil matters to persons 60 and older who may not be able to afford to hire a private attorney.

Website: <http://CTLawHelp.org> (click on Age 60+ Help)

- **Connecticut Legal Services, Inc.** (CLS) provides legal representation to low-income persons throughout the state, except those living in the greater Hartford or New Haven areas. Administrative Office: 62 Washington St. Middletown; 860-344-0447.

**CLS field offices:**

Bridgeport	203-336-3851
New Britain	860-225-8678
New London	860-447-0323
Stamford	203-348-9216
Waterbury	203-756-8074
Willimantic	860-456-1761

- **Greater Hartford Legal Assistance:**

Serving the greater Hartford area 860-541-5000

- **New Haven Legal Assistance Association:**

Serving the greater New Haven area 203-946-4811

**LEGAL SERVICES DEVELOPER**. Among other activities, the Legal Services Developer provides direction on how to obtain legal information on a wide range of issues affecting older residents and explains how to obtain legal assistance for adults age 60 and older under the Older Americans Act. Law enforcement is welcome to call the Legal Services Developer for appropriate services or information. Phone: 860-424-5244

**LONG-TERM CARE OMBUDSMAN PROGRAM (LTCOP)**. While the LTCOP does not conduct investigations of abuse, neglect, exploitation or abandonment, they do promote

and protect quality of life and care for skilled nursing home, residential care home and assisted living residents. Because LTCOP staff are often a first point of contact for these residents, they may be the first to notice the warning signs of elder abuse and financial exploitation or be the first person a resident confides in.

Central Office Address: 55 Farmington Avenue, Hartford, CT.

#### LTCOP Regional Offices and Towns Covered

<b>Northern Region</b>	<b>Western Region</b>	<b>Southern Region</b>
Intake Line: (860) 424-5221	Intake Line: (203) 597-4181	Intake Line: (860) 823-3366
<b>Towns Covered:</b> Andover, Ashford, Avon, Barkhamsted, Berlin, Bloomfield, Bolton, Bristol, Burlington, Canton, Chaplin, Colchester, Colebrook, Collinsville, Columbia, Coventry, East Granby, East Hartford, East Windsor, Eastford, Ellington, Enfield, Farmington, Forestville, Glastonbury, Granby, Hartford, Hartland, Harwinton, Hebron, Kensington, Manchester, Mansfield, Marlborough, New Britain, New Hartford, Newington, Plainville, Plantsville, Plymouth, Rocky Hill, Rockville, Simsbury, Somers, South Windsor, Southington, Stafford, Stafford Springs, Suffield, Thomaston, Tolland, Torrington, Union, Vernon, West Hartford, Wethersfield, Willimantic, Willington, Windham, Windsor Locks, Winchester, Wolcott, and Windsor	<b>Towns covered:</b> Bethel, Bethlehem, Bridgeport, Bridgewater, Brookfield, Canaan, Cornwall, Danbury, Darien, Easton, Fairfield, Goshen, Greenwich, Kent, Litchfield, Middlebury, Morris, New Canaan, New Fairfield, New Milford, Newtown, Norfolk, North Canaan, Norwalk, Oxford, Redding, Ridgefield, Roxbury, Salisbury, Sharon, Shelton, Southbury, Southport, Stamford, Stratford, Trumbull, Warren, Washington, Waterbury, Watertown, Weston, West Redding, Westport, Wilton, and Woodbury	<b>Towns covered:</b> Ansonia, Beacon Falls, Bethany, Bozrah, Branford, Brooklyn, Canterbury, Cheshire, Chester, Clinton, Cobalt, Cromwell, Danielson, Dayville, Deep River, Derby, Durham, East Haddam, East Hampton, East Haven, East Lyme, Essex, Franklin, Griswold, Groton, Guilford, Haddam, Hamden, Hampton, Killingly, Killingworth, Lebanon, Ledyard, Lisbon, Lyme, Madison, Meriden, Middlefield, Middletown, Milford, Montville, Moodus, Mystic, Naugatuck, New Haven, New London, Niantic, North Branford, North Haven, North Stonington, Norwich, Old Lyme, Old Saybrook, Orange, Portland, Preston, Plainfield, Pomfret, Prospect, Putnam, Salem, Scotland, Seymour, Sprague, Stonington, Thompson, Uncasville, Voluntown, Wallingford, Waterford, West Haven, Westbrook, Woodbridge, and Woodstock

**MOBILE CRISIS INTERVENTION AND EVALUATION UNIT:**

Connecticut Mental Health Center (CMHC) serves people with mental illness and/or addictions. Clinical staff are dedicated to helping patients find and follow their own individual pathways to recovery. The unit's responsibilities include pre-admission screening for all hospital admissions, walk-in evaluations, telephone crisis and information services, mobile outreach, and time-limited therapy.

Phone: (203) 974-7300 or (203) 974-7713.

**MUNICIPAL AGENTS.**

Each of Connecticut's 169 towns has a Municipal Agent for the Elderly. Municipal Agents assist older adults by providing information and referrals to services and benefit programs. To qualify for services from the Municipal Agent, the individual must be 60 years of age or older, or the reporter must be concerned about the welfare of someone who is at least 60 years of age. A current listing of municipal agents can be found at <https://data.ct.gov/Health-and-Human-Services/Municipal-Agents-for-the-Elderly-Listing/dsrm-u9nm> or by phone via 2-1-1.

**MyPlaceCT**

MyPlaceCT.org is a free, web-based resource designed to help older adults and people with disabilities live at home or in the community with optimal independence, health and wellbeing. It helps people explore their options and features current information on a wide range of services and supports - all in one place.

**NATIONAL ADULT PROTECTIVE SERVICES ASSOCIATION (NAPSA).** The goal of NAPSA is to provide Adult Protective Services (APS) programs a forum for sharing information, solving problems, and improving the quality of services for victims of elder and vulnerable adult mistreatment. Its mission is to strengthen the capacity of APS at the national, state and local levels, to effectively and efficiently recognize, report and respond to the needs of elders and adults with disabilities who are the victims of abuse, neglect or exploitation, and to prevent such abuse whenever possible. Website: <https://www.napsa-now.org/>

**NATIONAL CENTER ON ELDER ABUSE (NCEA).** The NCEA provides the latest information regarding research, training, best practices, news and resources on elder abuse, neglect and exploitation to professionals and the public. Website: <https://www.ncea.acl.gov/>

**NATIONAL CENTER ON LAW & ELDER RIGHTS (NCLR).** NCLR is a national resource center for the legal services and aging and disability networks, focused on the legal rights of older adults. Providing webinars, trainings, written materials, and case consultations, NCLR is a one-stop resource for professionals serving older adults with the greatest economic and social needs. NCLR is administered by Justice in Aging in partnership with the National Consumer Law Center, the ABA Commission on Law &

Aging, and The Center for Social Gerontology, under contract with the Administration for Community Living's (ACL) Administration on Aging. Website: <https://www.ncler.acl.gov/>

**NATIONAL CENTER FOR VICTIMS OF CRIME.** Advocacy organization dedicated to assisting those harmed by crime. Washington, DC. 202-467-8700. Website: <https://www.victims of crime.org>

**PROTECTIVE SERVICES FOR THE ELDERLY (PSE).** A division of the CT Department of Social Services, the PSE program is designed to safeguard people 60 years and older from physical, mental and emotional abuse, neglect (including self-neglect), abandonment, and/or financial abuse and exploitation.

Address: Central Office Address: 55 Farmington Avenue Hartford, CT. Phone: 888-385-4225. Website: <https://portal.ct.gov/DSS/Social-Work-Services/Social-Work-Services/Related-Resources>

**SENIOR CENTERS.** Senior Centers act as community resources and conduits to a myriad of services for older adults. It is important for local law enforcement to establish a relationship with local senior centers in order to assist in responding to the needs of older persons. For a list of senior centers by town go to <https://chcact.org/wp-content/uploads/2013/04/ctseniorcentersbytown.pdf>.

**U.S. DEPARTMENT OF JUSTICE.** The mission of the Department of Justice's Elder Justice Initiative is to support and coordinate the Department's enforcement and programmatic efforts to combat elder abuse, neglect and financial fraud and scams that target our nation's seniors. To that end, it created EAGLE, a Website and App for law enforcement (<http://eagle.trea.usc.edu>)

The Department of Justice also has Elder Justice Task Forces and Assistant U.S. Attorney Elder Justice Coordinators in each federal district in the country. The Task Forces provide coordination among state and local agencies, organizations and law enforcement that are combating elder abuse. Additionally, the Task Forces can evaluate complaints, investigate scams, and provide training. For contact information about the Task Forces and the current Elder Justice Coordinator in Connecticut, contact NCLER at: [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).

Address: 950 Pennsylvania Avenue NW, Washington, DC. Phone: 202-514-2000. Website: <https://www.justice.gov/>

**VICTIM COMPENSATION PROGRAM.** The Office of Victim Services, Victim Compensation Program may be able to help pay for certain crime expenses that are not covered by insurance or another financial resource.

Address: 225 Spring Street, 4th Floor, Wethersfield, CT 06109. Phone: 1-800-822-8428. Website: <https://jud.ct.gov/crimevictim/compensation.htm>



## APPENDIX

### DEFINITIONS

The following is a list of important terms and definitions related to elder abuse, neglect and exploitation for the purposes of this manual.

**Advance health care directive or advance directive:** a written document executed in accordance with the provisions of this chapter, including, but not limited to, a living will, or an appointment of health care representative, or both. [C.G.S. § 19a-570 (1).]

**Aging in place:** a phrase used to describe older adults remaining in the community, in their homes, or same environment, in the least restrictive environment for as long as possible. Aging in place is facilitated by bringing services to wherever an older adult resides. Moving to another setting, such as a nursing home, is the option of choice only when remaining in the same location is unrealistic given specific needs.

**Caregiver:** a person who has the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the elderly person voluntarily, by contract or by order of a court of competent jurisdiction. [C.G.S. § 17b-450 (9).]

**Conservator:** a person named by the Probate Court to handle certain affairs on behalf of another person, usually someone deemed incompetent.

- **Conservator of the estate** means a person... or other entity recognized under the laws of this state...appointed by the Probate Court...to supervise the financial affairs of a person found to be incapable of managing his or her own affairs or of a person who voluntarily asks the Probate Court for the appointment of a **conservator** of the estate, and includes a temporary **conservator** of the estate....[C.G.S. § 45a-644 (a).]
- **Conservator of the person** means a person...or other entity recognized under the laws of this state...appointed by the Probate Court...to supervise the personal affairs of a person found to be incapable of caring for himself or herself or of a person who voluntarily asks the Probate Court for the appointment of a **conservator** of the person. [C.G.S. § 45a-644 (b).]

**Domestic violence or family violence:** an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening, between family or household members. Verbal abuse or argument does not constitute family violence unless there is present danger and the likelihood that physical violence will occur. [C.G.S. §§ 46b-38a, 46b-38h.] Domestic violence is a pattern of coercive, controlling behavior that can include physical abuse, emotional or psychological abuse, sexual abuse or financial abuse. [Connecticut Coalition on Domestic Violence.]

**Elder abuse:** In general, the term “elder abuse” refers to any knowing, intentional, or negligent act by other person(s) that causes physical or financial harm to an older adult. The term includes physical abuse, neglect, and financial exploitation. [C.G.S. §§ 17b-450(5)-(8).]

**Elderly person:** any resident of Connecticut who is sixty years of age or older. [C.G.S. §§ 53a-320(2), 17b-450 (1).]

**Family or household members:** any of the following persons, regardless of the age of such person: Spouses or former spouses; parents or their children; persons related by blood or marriage; any persons presently residing together or who have resided together; persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and persons in, or who have recently been in, a dating relationship.

**Long-term care facility:** any skilled nursing facility...any nursing facility...a board and care facility...an institution regulated by the state...and any other adult care home similar to a facility or nursing facility or board and care home. [C.G.S. § 17b-405(a)(7).]

**Long-Term Care Ombudsman:** The Long-term Care Ombudsman is responsible for identifying, investigating and resolving complaints of residents of long-term care facilities. [C.G.S. §§ 17b-405(a)(2) & (3), 17b-408(b)(1).]

**Mandatory reporter:** persons mandated by state law to contact Protective Services for the Elderly within 72 hours of having reasonable cause to suspect or believe that any elderly person has been abused. [C.G.S. § 17b-450.]

**Medicaid (also called Title 19):** a joint federal and state medical assistance program for low-income individuals. [42 U.S.C. § 1396(a)]

**Older adult or older person:** has the same meaning as provided in C.G.S. § 17b-450.

**Power of Attorney (POA):** a written document or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used. [C.G.S. § 1-350a(7).]

**Protective services:** services provided by the state or other governmental or private organizations or individuals, which are necessary to prevent abuse, neglect, exploitation or abandonment. [C.G.S. § 17b-450 (4)]

**Protective Services for the Elderly (PSE):** the Connecticut state program that provides services to older adults, age 60 and over, to prevent abuse, neglect, exploitation or abandonment.

## CRIMINAL STATUTES RELATED TO ELDER ABUSE

The following is a chart that lists and summarizes Connecticut criminal statutes associated with elder abuse. This chart is a starting point only. Because the statutes are merely summarized and can change each legislative session, please check with a prosecutor or refer to the full statute when considering specific violations.

### **Crimes Associated With Physical Abuse Specific To People 60 And Older:**

Statute (C.G.S. §)	Name	Statute summary related to elder abuse
<b>53a-59a</b>	Assault of an elderly, blind, disabled, or pregnant person with intellectual disability in the first degree: Class B felony	Some forms include: <ul style="list-style-type: none"> <li>• Assault with intent to disfigure, amputate, destroy, or permanently disable a member or organ</li> <li>• Recklessly engaging in conduct that causes serious physical injury</li> <li>• Causing physical injury with a firearm...when the victim is at least 60 years old or is disabled...</li> </ul>
<b>53a-60b</b>	Assault of an elderly, blind, disabled, or pregnant person with intellectual disability in the second degree: Class D felony	Commits assault in the second degree when the victim is at least 60 or is disabled
<b>53a-60c</b>	Assault of an elderly, blind, disabled, or pregnant person with intellectual disability in the second degree with a firearm: Class D felony	Commits assault in the second degree, using a firearm, when the victim is at least 60 or is disabled
<b>53a-61a</b>	Assault of an elderly, blind, disabled, or pregnant person with intellectual disability in the third degree: Class A misdemeanor	Commits assault in the third degree when the victim is at least 60 or is disabled
<b>53a-320</b>	Abuse of Elderly, Blind or Disabled Persons or Persons with Intellectual Disability.	Definitions
<b>53a-321</b>	Abuse of Elderly, Blind or Disabled Persons or Persons with Intellectual Disability. Abuse in the first degree: Class C felony	Intentionally commits abuse that causes serious physical injury
<b>53a-322</b>	Abuse of Elderly, Blind or Disabled Persons or Persons with Intellectual Disability. Abuse in the second degree:	<ul style="list-style-type: none"> <li>• Intentionally commits abuse that causes physical injury, or</li> <li>• Knowingly commits abuse and causes serious physical injury</li> </ul>

	Class D felony	
<b>53a-323</b>	Abuse of Elderly, Blind or Disabled Persons or Persons with Intellectual Disability. Abuse in the third degree: Class A misdemeanor	<ul style="list-style-type: none"> <li>• Knowingly commits abuse and causes physical injury, or</li> <li>• Recklessly commits abuse and causes physical injury</li> </ul>

**Crimes Associated With Physical Abuse Of All Age Groups, Including Over 60:**

Statute (C.G.S. §)	Name	Statute summary related to elder abuse
<b>53a-54a</b>	Murder	<ul style="list-style-type: none"> <li>• With intent, causes the death of another Class A felony or capital felony</li> </ul>
<b>53a-54b</b>	Murder with special circumstances	<p>Includes:</p> <ul style="list-style-type: none"> <li>• Murder committed by person hired to commit the same for pecuniary gain</li> <li>• Murder committed in the course of commission of a felony</li> <li>• Murder by a kidnapper of a kidnapped person</li> <li>• Murder committed in the commission of sexual assault in the first degree</li> </ul>
<b>53a-54c</b>	Felony murder	Commits or attempts to commit robbery, home invasion, burglary, kidnapping, sexual assault in the first degree, aggravated sexual assault in the first degree, sexual assault in the third degree with a firearm and causes the death of a person
<b>53a-54d</b>	Arson murder	Causes the death of a person in the course of committing arson
<b>53a-55</b>	Manslaughter in the first degree: Class B felony	<ul style="list-style-type: none"> <li>• With intent to cause serious physical injury to another, causes the death of another person</li> <li>• With intent to cause the death of another, causes the death under circumstances that do not constitute murder</li> <li>• With an extreme indifference to human life, recklessly engages in conduct that creates a grave risk of death and death of another person</li> </ul>
<b>53a-55a</b>	Manslaughter in the first degree with a firearm: Class B felony	Uses a firearm to commit manslaughter in the first degree
<b>53a-56</b>	Manslaughter in the second degree: Class C felony	<ul style="list-style-type: none"> <li>• Recklessly cause the death of another person, or</li> <li>• Intentionally causes another to commit suicide</li> </ul>
<b>53a-56a</b>	Manslaughter in the second	Uses a firearm to commit manslaughter in the

	degree: Class C felony	second degree
<b>53a-58</b>	Criminally negligent homicide: Class A misdemeanor	With criminal negligence, causes the death of another person
<b>53a-59</b>	Assault in the first degree: Class B felony	<ul style="list-style-type: none"> <li>• Intentionally causing serious physical injury with a deadly weapon or dangerous instrument (but not a firearm)</li> <li>• Assault with intent to disfigure, amputate, destroy, or permanently disable a member or organ</li> <li>• Recklessly engaging in conduct that causes serious physical injury</li> <li>• Intentionally causing serious physical injury with the aid of two or more persons</li> <li>• Intentionally causing physical injury with a firearm</li> </ul>
<b>53a-60</b>	Assault in the second degree: Class D or C felony	<ul style="list-style-type: none"> <li>• Intentionally causing serious physical injury</li> <li>• Intentionally causing physical injury with a deadly weapon or dangerous instrument (but not a firearm)</li> <li>• Recklessly causing serious physical injury by a deadly weapon or dangerous instrument</li> <li>• Intentionally administering a drug without consent (and without a medical purpose) that causes stupor, impairment, or injury</li> <li>• Intentionally causing physical injury to an employee of the Board of Pardons and Paroles</li> </ul>
<b>53a-60a</b>	Assault in the second degree with a firearm: Class D felony	Commits assault in second degree when armed with a firearm or threatens, displays or represents by word or conduct possession of a firearm
<b>53a-61</b>	Assault in the third degree: Class A misdemeanor	<ul style="list-style-type: none"> <li>• Intentionally causing physical injury</li> <li>• Recklessly causing physical injury</li> <li>• With criminal negligence, causing physical injury by means of a deadly weapon, dangerous weapon, or electronic defense weapon</li> </ul>
<b>53a-63</b>	Reckless endangerment in the first degree: Class A misdemeanor	With extreme indifference to human life, creating a risk of serious physical injury
<b>53a-64</b>	Reckless endangerment in the first degree: Class B misdemeanor	Recklessly engaging in conduct that creates a risk of injury
<b>53a-64aa</b>	Strangulation or Suffocation in	Commits strangulation in the second degree and

	the first degree: Class C felony	in the commission of that offense uses or attempts to use a dangerous instrument or causes serious physical injury to another or has previously been convicted of a violation of this section or section 53a-64bb.
<b>53a-64bb</b>	Strangulation or Suffocation in the second degree: Class D felony	Restraints another by the neck or throat or obstructs the persons nose or mouth with the intent to impede the ability to breathe or restrict blood circulation
<b>53a-91</b>	Kidnapping and Related Offenses	Definitions
<b>53a-92</b>	Kidnapping in the first degree: Class A felony	Abducts someone with intent to compel another to pay a ransom or engage or refrain from a particular conduct, or restrains someone with intent to inflict injury or sexual abuse, assist with the commission of a felony, terrorize a third person or interfere with the performance of a government function
<b>53a-92a</b>	Kidnapping in the first degree with a firearm: Class A felony	Commits kidnapping in the first degree when armed with a firearm or threatens, displays or represents by word or conduct possession of a firearm
<b>53a-94</b>	Kidnapping in the second degree: Class B felony	Abducts another person
<b>53a-94a</b>	Kidnapping in the second degree with a firearm: Class B felony	Commits kidnapping in the second degree when armed with a firearm or threatens, displays or represents by word or conduct possession of a firearm
<b>53a-95</b>	Unlawful restraint in the first degree: Class D felony	Restraints and exposes another person to substantial risk of physical injury
<b>53a-96</b>	Unlawful restraint in the second degree: Class A misdemeanor	Restraints another person
<b>53a-254</b>	Computer crime in the third degree: Class D felony	Commits computer crime and damage to or value of the property or computer services exceeds 1K or recklessly engages in conduct that creates a risk of serious physical injury to another person

#### **Crimes Associated With Psychological/Emotional Abuse:**

Statute (C.G.S. §)	Name	Statute summary related to elder abuse
<b>53a-61aa</b>	Threatening in the first: Class D or Class C felony	<ul style="list-style-type: none"> <li>• Threatens to commit any crime involving the use of a hazardous substance with the intent to terrorize another person or in reckless disregard of causing such terror</li> </ul>

		<ul style="list-style-type: none"> <li>• Commits threatening in the second degree with a firearm</li> </ul>
<b>53a-62</b>	Threatening in the second degree: Class A misdemeanor or Class D felony	Placing someone in fear of imminent physical injury or threatening to commit a crime of violence (with the intent to terrorize someone)
<b>53a-192</b>	Coercion: Class A misdemeanor or Class D felony	Compelling someone to engage in conduct (that they could legally abstain from) (or to abstain from allowed conduct) by threatening to commit a crime, accuse someone of a crime, expose a damaging secret, or take or withhold action as an official (or cause another to do so)

#### **Crimes Associated With Sexual Abuse:**

Statute (C.G.S. §)	Name	Statute summary related to elder abuse
<b>53a-70</b>	Sexual assault in first degree: Class B or A felony	Use or threat of force that compels sexual intercourse; includes person with such mental incapacity to lack ability to consent
<b>53a-70a</b>	Aggravated assault in first degree: Class B or A felony	Uses or threatens use of weapon to cause bodily injury
<b>53a-70b</b>	Sexual assault in spousal or cohabitating relationship: Class B felony	No spouse or cohabiter shall compel sexual intercourse by use of force
<b>53a-71</b>	Sexual assault in second degree: Class C or B felony	Sexual intercourse against persons with a "mental disability," or who are "physically helpless," or are "in any public or private facility" under direction of Commissioner of Developmental Services
<b>53a-72a</b>	Sexual assault in third degree: Class D or C felony	Use or threat of force that compels sexual contact or sexual intercourse with related person in any degree of kindred
<b>53a-72b</b>	Sexual assault in third degree with a firearm: Class C or B felony	Commits sexual assault in the second degree when armed with a firearm or threatens, displays or represents by word or conduct possession of a firearm
<b>53a-73a</b>	Sexual assault in fourth degree: Class A misdemeanor or Class D felony	Intentionally subjecting another to sexual contact

### **Crimes Associated With Neglect And Abandonment:**

Statute (C.G.S. §)	Name	Statute summary related to elder abuse
<b>53-20</b>	Cruelty to persons: Class D felony	Intentionally tortures, torments, cruelly or unlawfully punishes, or deprive another person of necessary food, clothing, shelter or proper physical care.
<b>53a-63</b>	Reckless endangerment in the first degree: Class A misdemeanor	With extreme indifference to human life, creating a risk of serious physical injury
<b>53a-64</b>	Reckless endangerment in the first degree: Class B misdemeanor	Recklessly engaging in conduct that creates a risk of injury

### **Crimes Associated With Financial Exploitation:**

Statute (C.G.S. §)	Name	Statute summary related to elder abuse
<b>53a-60b</b>	Assault of an elderly, blind, disabled, or pregnant person with intellectual disability in the second degree: Class D felony	Committing larceny in the second degree against such person (when property is taken from their person)
<b>53a-119</b>	Larceny defined	With intent to deprive or appropriate property of another, wrongfully takes, obtains or withholds property from an owner. See statute for a list of types of larceny.
<b>53a-119b</b>	Using motor vehicle without owner's permission: Class A misdemeanor.	Operates or uses a motor vehicle without consent or obtains consent by fraudulent means
<b>53a-122</b>	Larceny in the first degree: Class B felony	Property exceeding \$20K in value is obtained by extortion
<b>53a-123</b>	Larceny in the second degree: Class C felony	Commits larceny and: <ul style="list-style-type: none"> <li>• Value of property or service exceeds \$10K, or</li> <li>• The property is taken from another, or</li> <li>• <b>The property, regardless of value, is obtained by embezzlement, false pretenses or false promise and the victim is 60 years of age or older, or is conserved or blind or physically disabled</b></li> </ul>
<b>53a-124</b>	Larceny in the third degree: Class D felony	Commits larceny and: <ul style="list-style-type: none"> <li>• The property consist of a motor vehicle worth \$10k or less, or</li> <li>• Value of property or service exceeds \$2k</li> </ul>
<b>53a-125</b>	Larceny in the fourth degree:	Commits larceny and the value of the property or

	Class A misdemeanor	service exceeds \$1K
<b>53a-125a</b>	Larceny in the fifth degree: Class B misdemeanor	Commits larceny and the value of the property or service exceeds \$500
<b>53a-125b</b>	Larceny in the sixth degree: Class C misdemeanor	Commits larceny and the value of the property or service is \$500 or less
<b>53a-125c</b>	Telephone fraud in the first degree: Class B felony	<ul style="list-style-type: none"> <li>• Knowingly or intentionally devises or participates in a scheme to defraud another of money or property</li> <li>• Employs false pretenses or false promises to obtain property valuing \$20K or more</li> <li>• Regardless of value, obtains money or property by extortion</li> <li>• Uses a telephonic call to obtain such money or property</li> </ul>
<b>53a-125d</b>	Telephone fraud in the second degree: Class C felony	<ul style="list-style-type: none"> <li>• Knowingly or intentionally devises or participates in a scheme to defraud another of money or property</li> <li>• Employs false pretenses or false promises to obtain property valuing \$10K or more</li> <li>• Uses a telephonic call to obtain such money or property</li> </ul>
<b>53a-125e</b>	Telephone fraud in the third degree: Class D felony	<ul style="list-style-type: none"> <li>• Knowingly or intentionally devises or participates in a scheme to defraud another of money or property</li> <li>• Employs false pretenses or false promises to obtain property valuing \$2K or more</li> <li>• Uses a telephonic call to obtain such money or property</li> </ul>
<b>53a-125f</b>	Telephone fraud in the fourth degree: Class A misdemeanor	<ul style="list-style-type: none"> <li>• Knowingly or intentionally devises or participates in a scheme to defraud another of money or property</li> <li>• Employs false pretenses or false promises to obtain property valuing \$1K or more</li> <li>• Uses a telephonic call to obtain such money or property</li> </ul>
<b>53a-125g</b>	Telephone fraud in the fifth degree: Class B misdemeanor	<ul style="list-style-type: none"> <li>• Knowingly or intentionally devises or participates in a scheme to defraud another of money or property</li> <li>• Employs false pretenses or false promises to obtain property valuing \$500 or more</li> <li>• Uses a telephonic call to obtain such money or property</li> </ul>
<b>53a-125h</b>	Telephone fraud in the sixth	<ul style="list-style-type: none"> <li>• Knowingly or intentionally devises or participates</li> </ul>

	degree: Class C misdemeanor	<p>in a scheme to defraud another of money or property</p> <ul style="list-style-type: none"> <li>• Employs false pretenses or false promises to obtain property valuing \$500 or less</li> <li>• Uses a telephonic call to obtain such money or property</li> </ul>
<b>53a-127b</b>	Fraudulent use of an ATM: Class A misdemeanor	Knowingly uses in a fraudulent manner an ATM with intent to deprive another of property or appropriate the same to oneself or a third person
<b>53a-127g</b>	Unlawful possession of a personal identifying information access device: Class A misdemeanor	Intentionally possesses an access device, document-making equipment or authentication implement for the purpose of fraudulently altering, obtaining or using the personal identifying information of another person
<b>53-128a</b>	Credit and debit card crimes	Definitions
<b>53-128b</b>	False statement to procure issuance or loading of payment card	Knowingly makes or causes to be made a false statement in writing, with intent that it be relied on respecting such person's identity or the identity of another for the purpose of procuring a payment card or loading the payment card into a digital wallet
<b>53a-128c</b>	Payment card theft. Fraud. Forgery	<ul style="list-style-type: none"> <li>• Without consent, takes a payment card from another with intent to use, sell or transfer it. Taking without consent includes conduct defined as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement, false pretense, false promise or extortion.</li> <li>• Receives and retains a payment card lost, mislaid or delivered by mistake with intent to use, sell or transfer</li> <li>• Buys or sells a payment card of another</li> <li>• With intent to defraud, obtains control over a payment card as security for debt</li> <li>• With intent to defraud falsely makes, embosses or loads a payment card into a digital wallet</li> <li>• With intent to defraud, signs a payment card</li> <li>• Subject to penalties set forth in 53a-128i</li> </ul>
<b>53a-128d</b>	Illegal Use of Payment Card. Presumption of Knowledge of Revocation	<ul style="list-style-type: none"> <li>• With intent to defraud, uses a payment card obtained in violation of 53-128b or which the perpetrator knows is forged, expired or revoked for the purpose of obtaining money, goods, services or anything else of value</li> </ul>

		<ul style="list-style-type: none"> <li>• Obtains money goods services or anything else of value by representing without consent of the cardholder that such person is the holder of a specified card or a card that has not been issued</li> <li>• Uses a payment card with knowledge that it is forged, expired or revoked</li> <li>• Subject to penalties set forth in 53a-128i</li> </ul>
<b>53a-128e</b>	Illegal furnishing of money, goods or services on payment card	<ul style="list-style-type: none"> <li>• With intent to defraud, furnishes money, goods, services or anything else of value upon presentation of a payment card obtained or retained in violation of section 53a-128c or a payment card which such person knows is forged, expired or revoked</li> <li>• With intent to defraud, fails to furnish money, goods, services or anything else of value after representing in writing that such goods, services or anything else of value have been furnished</li> <li>• Subject to penalties set forth in 53a-128i</li> </ul>
<b>53a-128g</b>	Receipt of money, goods or services obtained by illegal use of credit card	<ul style="list-style-type: none"> <li>• Receives money, goods, services or anything else of value obtained in violation of section 53a-128d, knowing or believing the same to have been so obtained</li> <li>• Subject to penalties set forth in 53a-128i</li> </ul>
<b>53a-128i</b>	Penalties for credit card crimes	<ul style="list-style-type: none"> <li>• The state is not required to establish and it is no defense: (1) that a person other than the defendant who violated sections 53-128a-I has not been convicted, apprehended or identified; (2) or that some of the acts constituting the violation did not occur in this state or were not a violation or elements of a violation where they did occur</li> <li>• Any person subject to the penalties of section 53a-128 shall be guilty of a Class A misdemeanor and/or a Class D felony</li> </ul>
<b>53-129a</b>	Identity theft defined	Knowingly uses personal identifying information of another person to obtain or attempt to obtain money, credit, goods, services, property or medical information without consent.
<b>53a-129b</b>	Identity theft in the first degree: Class B felony	Includes person over age 60 and the value of property taken exceeds \$5K
<b>53a-129c</b>	Identity theft in the second degree: Class C felony	Includes person over age 60, regardless of value of property
<b>53a-129d</b>	Identity theft in the third	Commits identity theft as defined in 53a-129a

	degree: Class D felony	
<b>53a-129e</b>	Trafficking in personal identifying information: Class D felony	Sells, gives, or transfers personal identifying information, knowing that the information was gained without authorization and that the receiver intends to use such information for an unlawful purpose
<b>53a-131</b>	Unlawfully concealing a will; Class A misdemeanor	Concealing, secreting, suppressing, mutilating, or destroying a will, codicil, or testamentary instrument
<b>53a-137</b>	Forgery and related offenses. Definitions	Definitions
<b>53a-138</b>	Forgery in the first degree: Class C felony	With intent to defraud, deceive or injure another, falsely makes, completes or alters, issues or possesses a written instrument which he knows to be forged
<b>53a-139</b>	Forgery in the second degree: Class D felony	With intent to defraud, deceive or injure another, falsely makes, completes or alters, issues or possesses a written instrument which he knows to be forged including a: <ul style="list-style-type: none"> <li>• Deed</li> <li>• Will/codicil</li> <li>• Contract</li> <li>• Public record</li> <li>• Prescription</li> </ul>
<b>53a-140</b>	Forgery in the third degree: Class B misdemeanor	With intent to defraud, deceive or injure another, falsely makes, completes or alters, issues or possesses a written instrument which he knows to be forged
<b>53a-250</b>	Computer-Related Offenses	Definitions
<b>53a-251</b>	Computer crime	<ul style="list-style-type: none"> <li>• Unauthorized access to a computer system</li> <li>• Theft of computer services</li> <li>• Interruption of computer services</li> <li>• Misuse of computer system information</li> <li>• Destruction of computer equipment</li> </ul>
<b>53a-252</b>	Computer crime in the first degree: Class B felony	Commits computer crime and damage to or value of the property or computer services exceeds \$10K
<b>53a-253</b>	Computer crime in the second degree: Class C felony	Commits computer crime and damage to or value of the property or computer services exceeds \$5K
<b>53a-254</b>	Computer crime in the third degree: Class D felony	Commits computer crime and damage to or value of the property or computer services exceeds \$1K or recklessly engages in conduct that creates a risk of serious physical injury to another person
<b>53a-255</b>	Computer crime in the fourth	Commits computer crime and damage to or value

	degree: Class A misdemeanor	of the property or computer services exceeds \$500
<b>53a-256</b>	Computer crime in the fifth degree: Class B misdemeanor	Commits computer crime and damage to or value of the property or computer services is \$500 or less
<b>53a-258</b>	Determination of degree of crime	Amounts included in violation of section 531-251 may be aggregated in determining the degree of the crime
<b>53a-262</b>	Computer extortion by use of ransomware: Class E felony	<ul style="list-style-type: none"> <li>• Introduces ransomware into any computer, system or network</li> <li>• Demands payment or money or other consideration</li> </ul>

**Protective Services for the Elderly Statutes:**

Statute (C.G.S. §)	Name of Statute	Statute summary related to elder abuse <sup>55</sup>
<b>17b-450</b>	Protective Services for the Elderly	Definitions
<b>17b-451(a)</b>	Report of suspected abuse, neglect, exploitation or abandonment or need for protective services. Penalty for failure to report.	<ul style="list-style-type: none"> <li>• Fine of up to \$500 for a mandatory reporter who fails to report abuse</li> <li>• Intentional failure to report is a class C misdemeanor for first offense and class A misdemeanor for subsequent offenses</li> </ul>
<b>17b-451(d)(2)</b>	Penalty for making a fraudulent or malicious report or providing false testimony	<ul style="list-style-type: none"> <li>• Willfully makes a fraudulent or malicious report</li> <li>• Conspires with another person to make or cause to be made such report, or</li> <li>• Willfully testifies falsely in any administrative or judicial proceeding as to the abuse, neglect, exploitation or abandonment of, or need of protective services for, an elderly person</li> <li>• Class A misdemeanor</li> </ul>
<b>17b-452</b>	Investigation of report. Findings, recommendations and disclosure of results. Registry. Confidentiality	<ul style="list-style-type: none"> <li>• DSS Commissioner to investigate report of abuse, neglect, exploitation or abandonment of an elderly person to determine the person's condition and what action and services are required</li> </ul>
<b>17b-453</b>	Initiation of protective services.	<ul style="list-style-type: none"> <li>• If an elderly person is in need of protective services and consents, services shall be provided</li> <li>• If the elderly person fails to consent and there is reason to believe she is incapable of managing her personal or financial affairs, protective services shall be provided to the extent possible</li> <li>• If necessary, the Commissioner of DSS may petition the probate court for appointment of a conservator</li> <li>• If a caregiver refuses to allow the provision of protective services to an elderly person who has consented to those services, the Commissioner of DSS may petition the probate court for an order enjoining the caregiver from interfering with the provision of services</li> </ul>

<sup>55</sup> See Also C.G.C. §§ 17a-412 and 17a-413

## CIVIL LEGAL REMEDIES FOR ELDER FINANCIAL EXPLOITATION

While the injustice of elder abuse may be addressed by various criminal statutes, civil remedies are also powerful tools to mitigate the effects of abuse, especially when law enforcement and the legal community work together on behalf of a victim.

Cause of Action	Purpose	Description	Statute/cases
<b>Breach of Fiduciary Duty</b>	Recover damages from the perpetrator when the perpetrator was acting as your client's agent	Generally, an agent is required to act in the best interests of the principal. If funds or property were mishandled by their agent (through a POA or other agent relationship), the victim might have a claim for breach of fiduciary duty.	The essential elements to pleading a cause of action for breach of fiduciary duty are: “[1] [t]hat a fiduciary relationship existed which gave rise to... a duty of loyalty...an obligation ... to act in the best interests of the plaintiff, and ... an obligation ... to act in good faith in any matter relating to the plaintiff; [2] [t]hat the defendant advanced his or her own interests to the detriment of the plaintiff; [3] [t]hat the plaintiff sustained damages; [and] [4] [t]hat the damages were proximately caused by the fiduciary's breach of his or her fiduciary duty.” <i>Chioffi v. Martin</i> , 181 Conn. App. 111, 138, (Conn. App. Ct. 2018).
<b>Civil statutory cause of action to recover funds taken by financial exploitation</b>	Recover actual damages, punitive damages and attorneys' fees	Allows recovery for actual damages, punitive damages, costs and reasonable attorneys' fees.	C.G.S.A. 17b-462. Cause of Action by Elderly Victim. Creates a cause of action for financial exploitation of anyone over age 60. See also §§ 17b-450 to 17b-461.  <b>Note:</b> An action may be brought by an elderly person, her conservator or POA, an organization acting on behalf of the elderly person or an executor of a deceased elderly victim.
<b>Statutory Theft</b>	Recover damages from a perpetrator of elder financial abuse	Statutory cause of action under which the victim can recover treble damages.	C. G. S. § 52-564. Treble damages for theft. Any person who steals any property of another, or knowingly receives and conceals stolen property, shall pay the owner treble his damages.

			<p>To prove a claim of civil theft, “it must be shown that (1) there was an intent to do the act complained of, (2) the act was done wrongfully, and (3) the act was committed against an owner.... The essential cause of action is a wrongful exercise of dominion over personal property of another.” <i>Kosiorek v. Smigelski</i> , 138 Conn. App. 695, 713 (Conn. App. Ct. 2012) cert, denied 308 Conn. 901, (2013).</p>
<b>CT Unfair Trade Practices (CUTPA)</b>	Recover damages from a perpetrator of elder financial abuse	Statutory cause of action under which the victim can recover actual damages, punitive damages and reasonable attorney's fees.	<p>C. G. S. § 42-110b. Unfair trade practices prohibited.</p> <p>“A party seeking to recover damages under CUTPA must meet two threshold requirements. First, he must establish that the conduct at issue constitutes an unfair or deceptive trade practice.... Second, he must present evidence providing the court with a basis for a reasonable estimate of the damages suffered.” <i>Anderson v. Schoenhorn</i>, 89 Conn. App.666, 675 (Conn. App. Ct. 2005). (Internal citations omitted).</p>
<b>Breach of Contract</b>	Recover damages from a perpetrator who was a hired caregiver, the company employing the perpetrator and/or their insurance company	Common law cause of action available to certain victims of financial exploitation.	“The elements of a breach of contract claim are the formation of an agreement, performance by one party, breach of the agreement by the other party, and damages.” <i>Meyers v. Livingston, Alder, Pulda, Meiklejohn and Kelly, P.C.</i> , 311 Conn 282, 291 (2014)

<b>Conversion</b>	Recover property or damages from the perpetrator where a “theft” occurred.	Common law cause of action available to certain victims of financial exploitation.	<p>“To establish a <i>prima facie</i> case of conversion, the plaintiff had to demonstrate that (1) the material at issue belonged to the plaintiff, (2) that [the defendant] deprived the plaintiff of that material for an indefinite period of time, (3) that [the defendant’s] conduct was unauthorized and (4) that [the defendant] conduct harmed the plaintiff.” <i>News America Marketing In-Store Inc. v. Marquis</i>, 86 Conn. App. 527, 545 (2004) <i>aff’d</i> 276 Conn. 310 (2005). “[A]n essential element of the tort of conversion is the <i>unauthorized</i> use of another’s property.” <i>Hi-Ho Tower Inc. v. ComTronics, Inc.</i>, 255 Conn. 20, 47, (2000) (emphasis in original).</p> <p><b>Note:</b> The perpetrator does not have to be an agent or hired caretaker.</p> <p>Generally, conversion is an intentional tort in which one person takes uses or alters the property of another person without permission. Property can include money, tangible items and real property. Conversion is sometimes characterized as the civil version of theft.</p>
<b>Constructive Trust</b>	Seek return of misappropriated property.	Common law cause of action available to certain victims of financial exploitation.	<p>“The elements of a constructive trust are the intent by a grantor to benefit a third person, the transfer of property to another who stands in a confidential relationship to the grantor with the intent that the transferee will transfer the property to the third person, and the unjust enrichment of the transferee if the transferee is allowed to keep the property.” <i>Gulack v. Gulack et al.</i>, 30 Conn. App. 305, 310 (Conn. App. Ct. 1993)</p> <p><b>Note:</b> Usually used as a remedy for circumstances when a person conveys real estate to the perpetrator.</p>
<b>Unjust enrichment</b>	Seek recovery of property or funds lost as a	Common law cause of action available to	<p>“Plaintiffs seeking recovery for unjust enrichment must prove (1) that the defendants were benefited, (2) that the defendants unjustly did not</p>

	result of elder financial exploitation.	certain victims of financial exploitation.	<p>pay the plaintiffs for the benefits, and (3) that the failure of payment was to the plaintiffs' detriment." <i>Vertex, Inc. v. City of Waterbury</i>, 278 Conn. 557, 573 (2006)</p> <p><b>Note:</b> A right of recovery under the doctrine of unjust enrichment is essentially equitable; its basis being that it is contrary to equity and good conscience for one to retain a benefit that has come to him at the expense of another.</p>
<b>Undue influence</b>	Seek recovery of property or funds lost as a result of elder financial exploitation	Common law cause of action available to certain victims of financial exploitation.	<p>"It is stated generally that there are four elements of undue influence: (1) a person who is subject to influence; (2) an opportunity to exert undue influence; (3) a disposition to exert undue influence; and (4) a result indicating undue influence." <i>Pickman v. Pickman</i>, 6 Conn. App. 271, 275 (1986).</p> <p><b>Note:</b> Undue influence is the exercise of sufficient control over the person, the validity of whose act is brought in question, to destroy his free agency and constrain him to do what he would not have done if such control had not been exercised</p>
<b>Rescission and Restitution</b>	Reverse transactions or agreements that are damaging to your client	Equitable remedies available to certain victims of financial exploitation.	<p>Rescission and restitution are equitable remedies. The remedy of rescission and restitution is an alternative to damages in an action for breach of contract. Rescission, simply stated, is the unmaking of a contract. It is a renouncement of the contract and any property obtained pursuant to the contract, and places the parties, as nearly as possible, in the same situation as existed just prior to the execution of the contract. Restitution is [a]n equitable remedy under which a person is restored to his or her original position prior to loss or injury, or placed in the position he or she would have been, had the breach not occurred. <i>Wallenda v. Moskowitz</i>, 81 Conn. App. 213, 240-41 (Conn. App. Ct. 2004). (Internal citations and quotations</p>

			<p>omitted).</p> <p><b>Note:</b> As a remedy for fraud or undue influence, rescission or a reversal can be sought when a victim was “induced” into an agreement or contract by a misrepresentation or undue influence by the perpetrator or if the victim lacked necessary capacity at the time of the transaction. These could be considered in situations where the victim may have added the perpetrator as a joint bank account holder or signed an agreement to transfer funds or property to the perpetrator or another party.</p>
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# EAGLE

## Elder Abuse Guide for Law Enforcement

By virtue of U.S. demographics, elder abuse is one of the fastest growing crimes in the United States. The Department of Justice provides training, toolkits and resources to assist law enforcement in their mission to combat elder abuse and financial exploitation.

The [Elder Abuse Guide for Law Enforcement](#), EAGLE, is an online tool designed to support officers in quickly identifying, intervening, and resolving elder abuse situations. Developed with input and user testing by law enforcement for law enforcement, EAGLE provides: Tools to assist in documenting a case for prosecution

- ZIP-code-based community resources locator
- State-by-state penal codes relating to elder abuse
- Curated list of webinars designed for law enforcement
- And much more at <http://eagle.trea.usc.edu>

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- Center of Excellence on Elder Abuse and Neglect at the University of California – Irvine (UCI)
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**Does the older adult have any impairments?**

- Hearing impaired/uses hearing aid
- Visually impaired (wears glasses, full or partial blindness, cataracts)
- Requires walker, wheelchair or cane
- Wears dentures

**Does the older adult take medications? If so, list:**

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**Does the older adult any medical conditions? If so, list:**

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**Can the older adult do the following things independently (without assistance)?**

Bathing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Dressing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Toileting	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Transferring	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Continence	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Ability to use the telephone	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Transportation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown

**Signs of Physical Abuse**

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Bruises	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Black Eyes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Lacerations	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Ligature / Restraint Marks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Broken Bones	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Burns	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Bite Marks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Over / Under Medicated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Hair Pulled Out	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Uncooperative Caretaker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Weapons	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

## Elder Abuse First Responder Checklist

### Signs of Sexual Abuse

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Bruises: Breasts/Genital Area	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Torn/Bloody Underclothes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Difficulty Walking/Sitting	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Sexually Transmitted Disease	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Broken Bones	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Burns	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Bite Marks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Over / Under Medicated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Hair Pulled Out	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Uncooperative Caretaker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Weapons	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

### Signs of Neglect/Cruelty

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Lack of Basic Services	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Lack of Assistive Devices	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Abandonment	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Inappropriate Clothing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Inadequate Heating/Cooling	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Bed Sores	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Unsafe Environment	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Fleas/Lice/Roaches/Rodents	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Fecal/Urine Odor/Stains	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Lock/Chains On Interior Doors	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

### Signs of Emotional Abuse

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Upset/Agitated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Withdrawn/Non-responsive	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Nervous Around Caregiver/Other	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Caregiver Restricts Communication To Friends & Family	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Fearful Of Saying Or Doing Something Wrong	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

## Elder Abuse First Responder Checklist

### Signs of Financial Abuse

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Unemployed Adults Reside In Home	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
New Names on Signature Card(s)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Unauthorized Withdrawal(s)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Abrupt Changes In Will	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Disappearance of Funds/Possessions	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Unpaid Bills/Adequate Funds	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Forged Signature For Transactions	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Appearance Of Uninvolved Relative	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Sudden Transfer Of Assets	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Unlicensed Personal Care Home	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Large Purchases For The Abuser's Benefit	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Inappropriate Financial Reimbursement For Services To The Older Adult	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

### Signs of Self-Neglect

Dehydration/Malnutrition	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Lack Of Medical Attention	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Unsafe Living Conditions	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Unsanitary Living Conditions	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Inappropriate Clothing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Lack Of Assistive Devices	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown
Inadequate Housing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown



## RESEARCH TO PRACTICE TRANSLATION

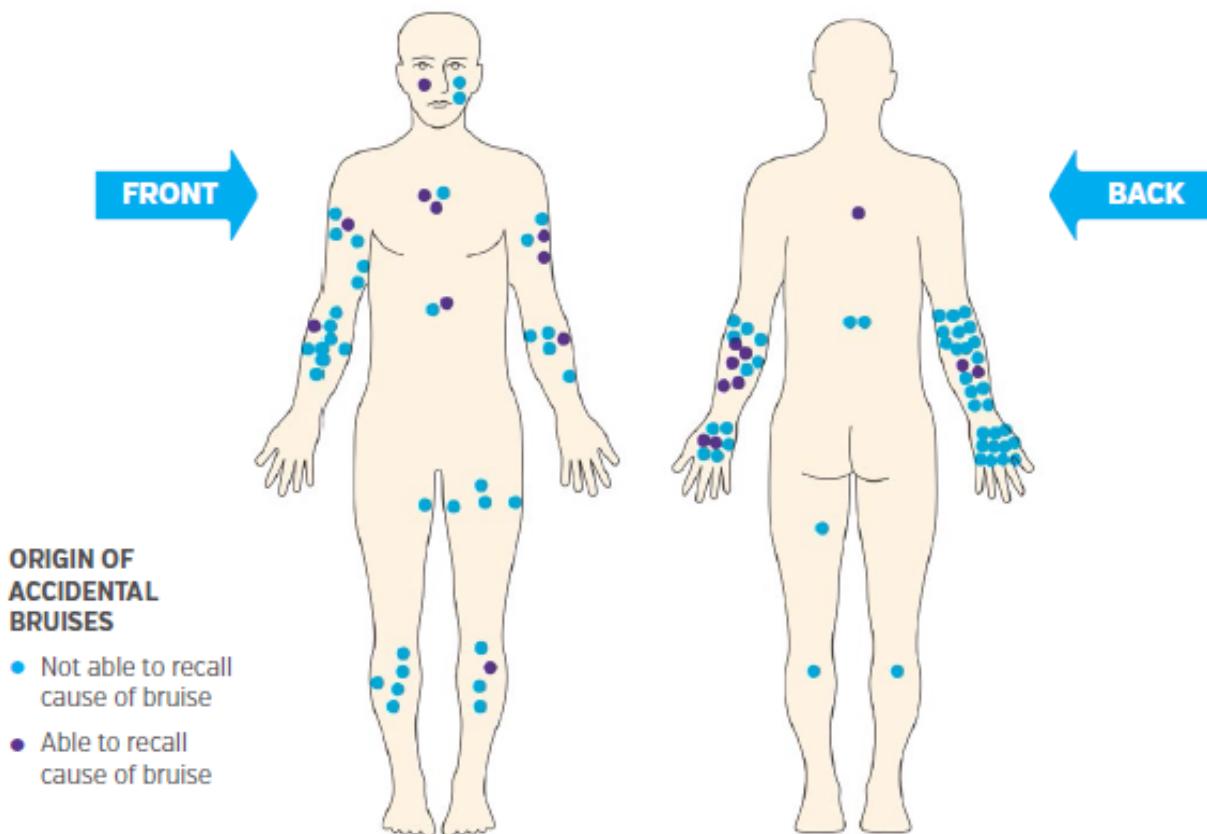
### Bruising in Older Adults: Accidental Bruising and Bruising from Physical Abuse

Our research translations highlight key points of aging- and abuse-related research articles for use by practitioners working with older adults. Visit the National Center on Elder Abuse website and click Library for more information on research [www.ncea.aoa.gov](http://www.ncea.aoa.gov).

## PART I: ACCIDENTAL BRUISING IN OLDER ADULTS

Key findings from a study of **accidental bruising in older adults**:

- **Color of a bruise did not indicate its age.** A bruise could have any color from day one.
- **90% of accidental bruises were on the extremities** rather than the trunk, neck or head.
- **Less than a quarter of older adults with accidental bruises remembered** how they got them.
- **Older adults taking medications** that interfere with coagulation pathways were more likely to have **multiple bruises**, but the bruises **did not last any longer** than the bruises of those who didn't take these medications.



Citation: Mosqueda L, Burnight K, Liao S. The life cycle of bruises in older adults. J Am Geriatr Soc. 2005 Aug;53(8):1339-43

This project was funded by Grant 2001-IJ-CX-K014 from the Department of Justice (DOJ), Office of Justice Programs

## PART II:

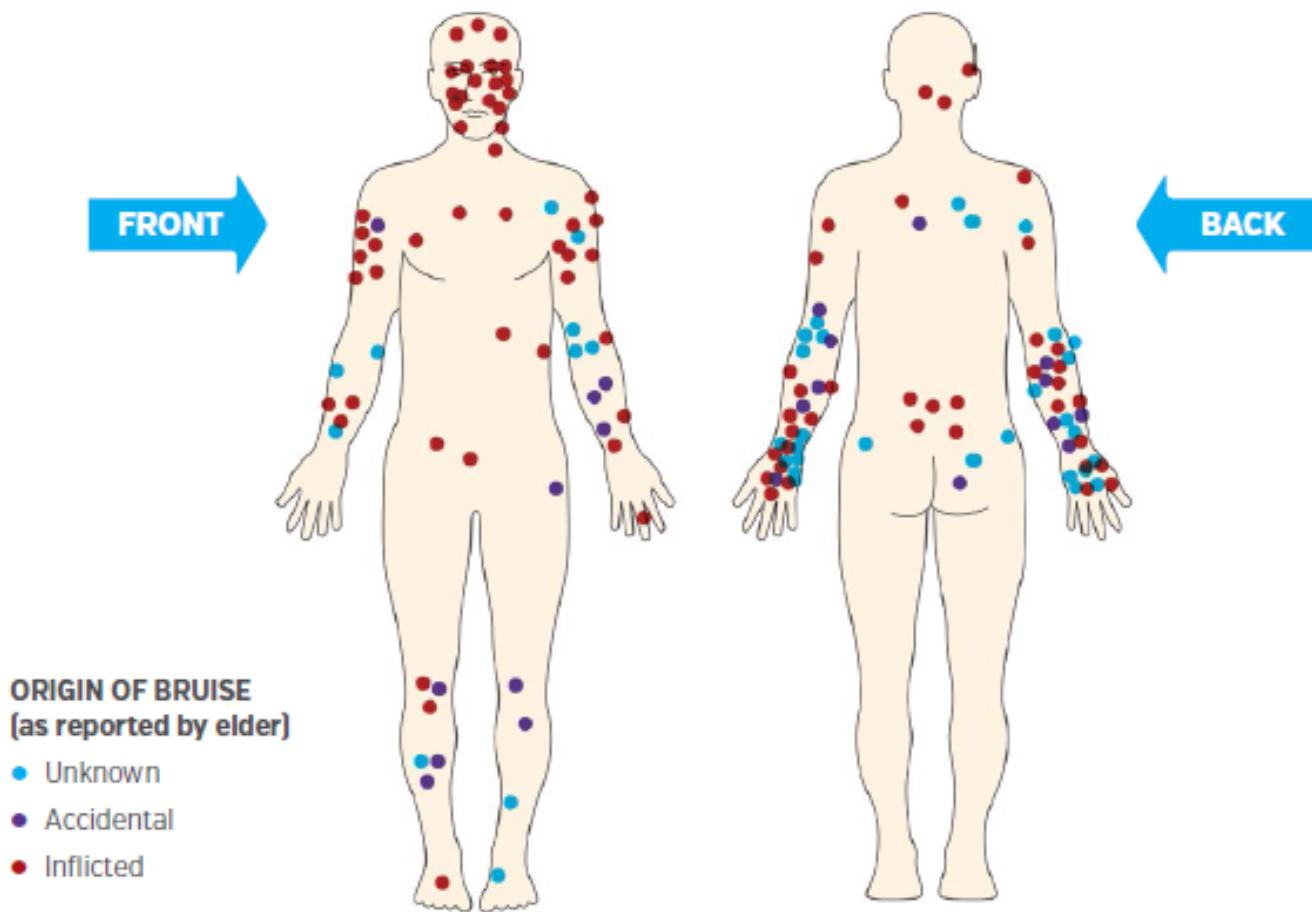
### BRUIISING IN OLDER ADULTS AS REPORTED BY ABUSED ELDERS

Key findings from a study of **bruising in older adults who have been physically abused** were:

1. Bruises were large. More than half of older adults with bruises who had been physically abused had at least one bruise **5 cm (about 2 inches) in diameter or larger**.
2. Could be anywhere, but note **especially if they are on face, lateral (same side as the thumb) or anterior (same side as the palm of the hand) surface of the arm, or on the back**. Older adults with bruises who had been abused had more bruises in these areas than older adults whose bruises were accidental.

And please,

3. Ask the older adult about bruises – gently and in private. 90% of older adults with bruises who have been physically abused **can tell you how they got their bruises**, and this **Includes many older adults with memory problems and dementia**.



*Citation: Wiglesworth A, Austin R, Corona M, Schneider D, Liao S, Gibbs L, Mosqueda L. Bruising as a marker of physical elder abuse. J Am Geriatr Soc. 2009 Jul;57(7):1191-6.*

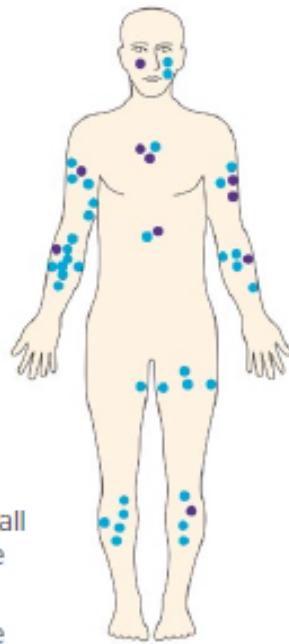
*This project was funded by Grant 2005-JI-CX-0048 from the Department of Justice (DOJ), Office of Justice Programs*

## Anterior Comparison

### PART I: ACCIDENTAL

#### ORIGIN OF ACCIDENTAL BRUISES

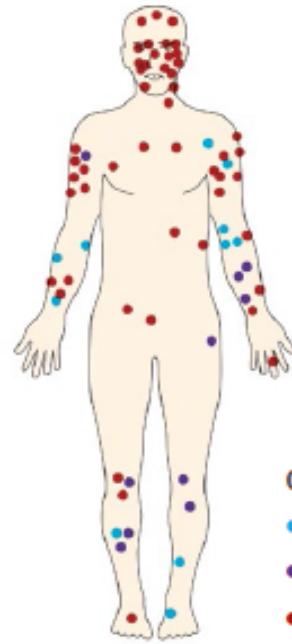
- Not able to recall cause of bruise
- Able to recall cause of bruise



### PART II: PHYSICAL ABUSE

#### ORIGIN OF BRUISE

- Unknown
- Accidental
- Inflicted

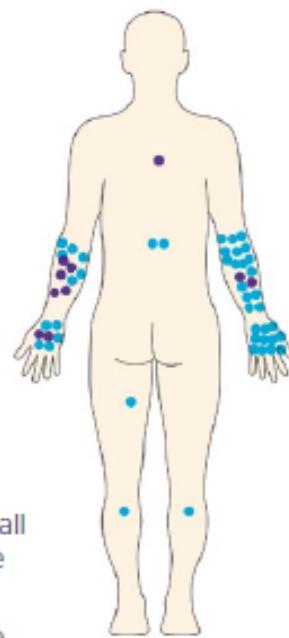


## Posterior Comparison

### PART I: ACCIDENTAL

#### ORIGIN OF ACCIDENTAL BRUISES

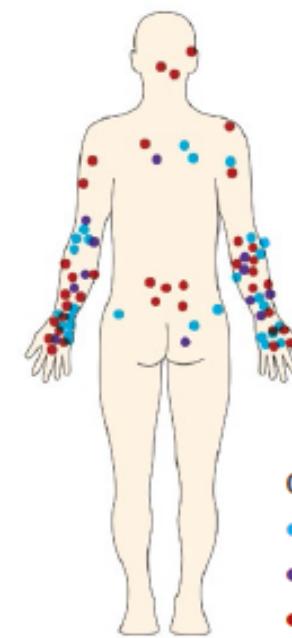
- Not able to recall cause of bruise
- Able to recall cause of bruise



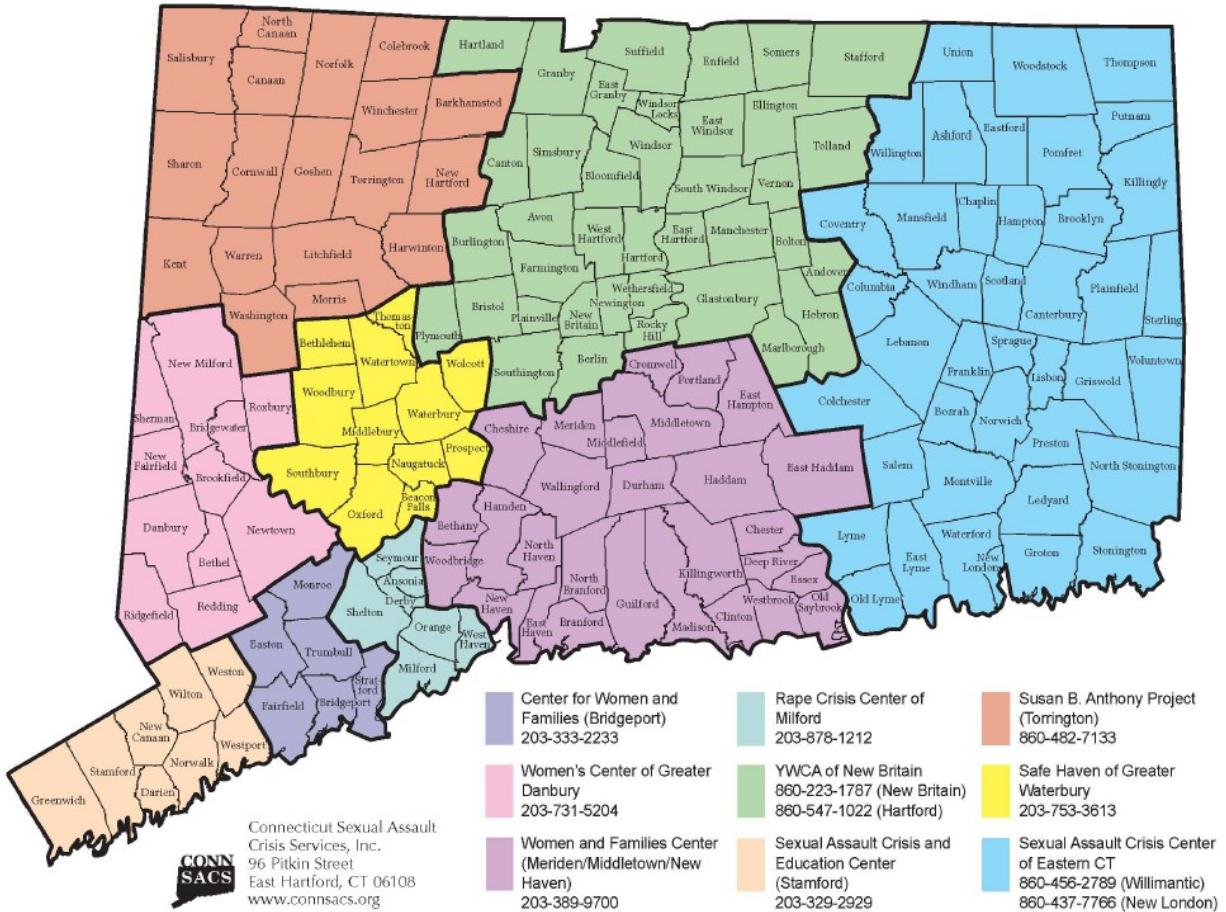
### PART II: PHYSICAL ABUSE

#### ORIGIN OF BRUISE

- Unknown
- Accidental
- Inflicted



24-hour Toll-Free Sexual Assault Hotline 888-999-5545 (English) 888-568-8332 (Español)



## WHO MUST REPORT ELDER ABUSE: MANDATORY REPORTERS

In Connecticut, mandatory reporters are required to report, within 72 hours, to the Department of Social Services, Protective Services for the Elderly division if they have reasonable cause to suspect or believe that any elderly person has been abused, neglected, abandoned or exploited. In Connecticut, an “elderly person” is defined as someone 60 years of age or older. Below is a list of professionals that are mandated reporters under the law.

Profession	Mandated Reporters
Health Care Providers	<ul style="list-style-type: none"><li>• Licensed physicians and surgeons</li><li>• Resident physicians and interns at any hospital in the state</li><li>• Registered and licensed practical nurses</li><li>• Chiropractors</li><li>• Dentists</li><li>• Optometrists</li><li>• Pharmacists</li><li>• Physical Therapists</li><li>• Podiatrists</li><li>• Medical examiners</li></ul>
Long-term Care Facility Employees	<ul style="list-style-type: none"><li>• Long-term care facility administrators, staff and anyone paid to care for a resident of a long-term care facility or residential care home</li><li>• Nurse's aides or orderlies working in a nursing home or residential care home</li></ul>
Behavior Health Providers	<ul style="list-style-type: none"><li>• Domestic violence counselors, psychologists, sexual assault counselors, social workers</li></ul>
Public Safety	<ul style="list-style-type: none"><li>• Police officers</li><li>• Licensed or certified emergency medical services (EMS) providers, including members of a municipal fire department</li></ul>
Other	<ul style="list-style-type: none"><li>• Anyone paid to care for an elderly person by an institution, organization, or agency (e.g. adult day center, congregate housing facility, home care agency, homemaker-companion agency, or senior center)</li><li>• Resident advocates (except for representatives of the Office of the Long-term Care Ombudsman)</li><li>• Clergymen<sup>56</sup></li></ul>

Additionally, any other person having reasonable cause to suspect or believe that a person age 60 or older is being abused, neglected, exploited or abandoned may make a report to PSE.<sup>57</sup>

<sup>56</sup> C.G.S. §§ 17a-412(a), 17b-451(a)

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<sup>57</sup> C.G.S. §§ 17a-412 (c), 17b-451 (c)



W-675  
(Rev 6/15)

STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES  
Report Form For Protective Services For The Elderly

To Refer a Connecticut  
Protective Service Case Call:  
1-888-385-4225 Toll Free

Call the Protective Services for the Elderly at the Department of Social Services during business hours at the toll-free line: 1-888-385-4225 or Info-line at 211 (after business hours, weekends or state holidays) if you have any reason to believe or suspect that the elderly person cited below is being abused, neglected, exploited or abandoned. You may complete this form and forward it to the DSS Central Office via Fax 860-424-5091 or mail to 55 Farmington Avenue, Hartford, CT 06105.

Pursuant to Sec. 17b-451 of the Connecticut General Statutes, certain individuals are mandated to report suspected abuse, neglect, exploitation, or abandonment. If you are making a written referral, complete this form giving as much information as you have available to you.

I. INDIVIDUAL BEING REFERRED (Person in need of protection)				
(Last Name)	(First)	(M.I.)	Age:	Date of Birth: ____ / ____ / ____
ADDRESS	(No. & Street)	(City or Town & Zip Code)	Phone (include area code): (____) - _____	
SOCIAL SECURITY NUMBER:			LANGUAGE SPOKEN:	
RELEVANT PERSONS: In-Home or Not in Home (attach additional sheets, if needed)				
NAME	RELATIONSHIP	CURRENT ADDRESS		
II. REASON FOR REFERRAL (Check all appropriate categories, not mutually exclusive)				
<input type="checkbox"/> Abuse <input type="checkbox"/> Neglect <input type="checkbox"/> Exploitation <input type="checkbox"/> Abandonment				
Date of Alleged Incident (If Known) _____				
Give Details (attach additional sheets, if needed) : _____ _____ _____				
Name of Suspected Perpetrator (If Known)	Relative (Specify)		Other (Specify)	
Is State or local police involved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Official's Name, Agency, Address, and Phone (include area code): _____			
Individual has Physical Problems? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Give details of physical problems/limitation: _____				
Is individual on any public assistance programs? <input type="checkbox"/> Yes <input type="checkbox"/> No      If "Yes" (Specify): <input type="checkbox"/> Title XIX (Medicaid) <input type="checkbox"/> SNAP <input type="checkbox"/> Town <input type="checkbox"/> SSI / SSA <input type="checkbox"/> Medicare				
Other (Specify) _____				
III. REFERRAL SOURCE:				
NAME:	ADDRESS:			
Does referral source wish to be: <input type="checkbox"/> Anonymous <input type="checkbox"/> Identified <input type="checkbox"/> Does Not Want to be Identified	Relationship to Elderly Person:		Phone (include area code): (____) - _____	
_____ Signature	_____ Printed Name		_____ Date	
Persons who are deaf or hard of hearing and have a TTD/TTY device can contact DSS at 1-800-842-4524. Persons, who are blind or visually impaired, can contact DSS at 1-860-424-5040.				



**STATE OF CONNECTICUT**  
**DEPARTMENT OF SOCIAL SERVICES**  
**SOCIAL WORK SERVICES**

55 Farmington Avenue,  
Hartford, CT 06105-3730  
Phone: 1-888-385-4225  
Fax: 860-424-5091

W-410

(Rev 7/18)

**MANDATED REPORTER FORM FOR LONG TERM CARE FACILITIES**

<b>Resident in Need of Protection Being Referred</b>			
Last Name:	First Name:	M.I.:	
Date of Birth: _____	S.S. #: _____	Age: _____	
<b>Long Term Care Facility</b>			
Name of Long Term Care Facility: _____			
Facility Address: _____			
Contact Person: _____			
Telephone: (      ) _____ Fax: (      ) _____			
Report of Suspected:			
<input type="checkbox"/> Abuse	<input type="checkbox"/> Neglect	<input type="checkbox"/> Exploitation	<input type="checkbox"/> Abandonment
Date of incident (if known): _____			
Relationship of the alleged perpetrator to the resident (i.e. family, facility staff, other resident, etc.): _____			
Who Has Been Notified / Involved?			
<input type="checkbox"/> CT Department of Social Services	<input type="checkbox"/> CT Department of Public Health	<input type="checkbox"/> State or Local Police	
If this is a resident/family complaint, has an offer been extended to contact the Long Term Care Ombudsman on their behalf?			
<input type="checkbox"/> Yes, offer to contact LTC Ombudsman was extended	<input type="checkbox"/>		
<input type="checkbox"/> No; offer to contact LTC Ombudsman was not extended	<input type="checkbox"/>		
Was offer to contact LTC Ombudsman accepted? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Please provide information regarding the nature and extent of the situation and any other details which might be helpful in investigating the case and protecting the resident. _____ _____ _____			
Investigation pending and summary to follow. <input type="checkbox"/> Yes <input type="checkbox"/> No			
Referral/Reporter Information:			
Name: _____			
Address: _____			
Telephone: (      ) _____ Fax: (      ) _____			
Relationship to the Resident: _____ Date of Report: _____			
Does the Reporter Wish to be: <input type="checkbox"/> Anonymous <input type="checkbox"/> Identified			

Note: Incidents between residents need only be reported when the facility has determined that the resident has the capability to act intentionally, knowingly or recklessly, in accordance with definitions contained in Penal Code 531.3.  
TELEPHONE REPORTS ARE NOT ACCEPTABLE

THIS INFORMATION IS AVAILABLE IN ALTERNATE FORMATS. Persons who are deaf or hard of hearing and have a TTD/TTY device can contact DSS at 1-800-842-4524. Persons who are blind or visually impaired, can contact DSS at 1-860-424-5040.

**DEPARTMENT OF CONSUMER PROTECTION**  
**FRAUDS DIVISION**  
**HOME IMPROVEMENT SCAMS TRAINING FOR LAW ENFORCEMENT**

TO: ALL LAW ENFORCEMENT AGENCIES  
FROM: ROBERT NAKANO, SUPERVISING SPECIAL INVESTIGATOR  
DATE: 5/10/19

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**INTRODUCTION:** Home improvement scams are on the rise in Connecticut and the rest of the country as the economy continues to gain strength. This unfortunately creates an abundance of potential victims for the scam artists who target senior citizens and other unsuspecting individuals. These types of crimes are non-violent in nature and usually result in misdemeanor charges against the perpetrators, but can cost victims thousands and even hundreds of thousands of dollars yearly. Most perpetrators go unnoticed as well because victims are afraid or ashamed to report the incidents to police and family. The other problem in prosecuting is that the perpetrators are highly mobile and can move from town to town or state to state quickly, if they suspect law enforcement is on their trail. The other problem in prosecuting is that the perpetrators often use false names and may have several varying ID's (i.e. driver's licenses, passports, etc.). The most effective means of dealing with the problem is cooperation between all law enforcement agencies in identifying the players, sharing information and prosecution.

**1. Paving and Driveway Sealing Scams.** This type of scam has been around for many years and involves groups of organized families or clans that train generations of members in their art of deception. The asphalt scam usually begins with a scout who searches neighborhoods looking for potential victims. This person is able to single out targets by observing homes, driveways and looking for seniors who are outside working in the yard. The introductions are generally the same; "We were working up the street on a nearby job or working for the town or city on a water main job, and just happen to have leftover asphalt and noticed your driveway looks in need of repairs". The pitch man will usually quote a price of \$2.00 to \$3.00 a foot, but will avoid giving the victim a total price. The victim believes they will get a small area repaired, but is always shocked to find the con artists resurfacing their entire driveway. Once the job is done the con artist will demand \$2,000.00 to \$15,000.00 cash depending on the size of the driveway which is triple or more than the average price charged by legitimate contractors. The con artists will often offer to drive the victim to the bank to withdraw the cash. Sometimes the victim is given an invoice or contract after work is performed with little or incorrect information on the

name or address of the company. The con artists also will use false names or only first names when asked by the victim.

**2. Chimney Repair Scams.** This type of scam has become a problem over the past nine years. Victims are always telemarketed by the firms offering great deals on chimney cleanings. The low prices charged for the cleanings are a way to get the firms into the victim's home in order to inspect the chimneys and then to begin finding numerous problems and scare tactics to induce the person to agree to costly or unnecessary repairs. Often the cleanings are done poorly and quickly or not done at all. The service men sent to the victim's home will use scare tactics such as: chimney is a fire hazard; carbon monoxide dangers; dead animal found inside; bricks are loose and may fall down; etc. Firms have been videotaped in sting operations also breaking chimneys in order to make repairs. Many of the firms operating in Connecticut are based in Long Island or other New York border towns and use the ferries to come over in the morning and leave in the evening. Most of the time the vehicles are unmarked vans, pick-up trucks or station wagons with New York plates that may come back to leasing companies or dealer plates to avoid identification of the company owners. The perpetrators seldom provide their full names to the victims and talk fast in order to confuse or distract them. The most common type of repair is to install chimney caps or seal cracked crowns. The more expensive repairs are the installation of stainless steel flue liners or chimney rebuilding that always require building permits, but are never applied for to avoid identification by local building officials familiar with the scam. In order to qualify as a home improvement in this scam, the repairs must exceed \$200.00 excluding the cleaning fee. An example of this would be to charge the victim before tax if collected, a total fee of \$260.00, \$200.00 of which was for installing two caps and \$60.00 of which was charged for cleaning the chimney. This is a home improvement because the cost of the caps were \$200.00. An example where it does not qualify as a home improvement would be to charge \$199.99 for installing two caps and charging \$60.00 for the cleaning; \$199.99 is below the \$200.00 threshold and cleanings are not home improvement. In Connecticut there is no licensing or registration requirement for chimney cleaning; the firm only needs a sales tax number. A home improvement registration is required when the chimney company offers to make repairs in excess of \$200.00.

3. Victims sometimes will call the police to report the incident, but officers unfamiliar with state statutes concerning home improvements and tax violations will view the matter as civil in nature and no criminal action will be pursued. In other instances victims will wait days or weeks to report the incident at which time the perpetrators are long gone or there was not enough information provided to pursue the matter criminally.

4. The short term solution for a long term problem is to be able to act quickly when the perpetrators are still in town when incidents are reported. The state statutes concerning home improvement contractors require all contractors and salesmen to be registered with the Department of Consumer Protection and to provide a certificate of registration upon request. **The statute also provides that in order to be a home improvement, the contractor must offer to perform at least \$1,000.000 worth of work in any 12 month period and all contracts must be in excess of \$200.00. The only types of homes that qualify for home improvements are single-family residences, multifamily dwelling consisting of not more than six units or a unit, common element or limited common element in a condominium.** The registration certificate is the size of a driver's license and lists the person's name, address and registration number along with the expiration date (see attached sample). Some con artists are getting smarter and obtaining registrations, but most operate without one. **Offering to make and making home improvements without a registration is a violation of Sec. 20-427(b)(5) and is a class B misdemeanor.** The key in determining whether or not the charge will apply is to determine from the victim who was the pitchman and does he possess a registration. If not he can be charged with Sec. 20-427(b)(5). **In some instances there will be one perpetrator who possesses the registration, but the salesman does not. In this instance the salesman can be charged with Sec. 20-427(b)(5) and the registered contractor can be charged with Sec. 20-427(b)(7), employing an unregistered salesman to procure business on his behalf, also a class B misdemeanor.**

5. Another plan of attack against the perpetrators that can be applied when a police officer arrives on scene is to advise the victim that state statutes provide that the contract can be canceled within three business days and the perpetrator must refund any moneys received under the Home Solicitation Sales Act, Sec. 42-135a. The way the con artists work they must solicit and perform the work the same day or many times the victim will change their minds and not agree to any work if they are given time to think about it. State law however requires all contractors to wait three business days before starting any work, but con artists will seldom wait and will pressure the victim to have the work done immediately or the price will be higher. **The criminal charge for not providing the victim with written notice of their three day right to cancellation or failing to refund moneys upon request during the three day period is Sec. 42-141(a) and carries a 90 day prison sentence, \$500.00 fine or both. Please note that this charge can be used regardless of whether or not the contractor was registered.** This can be a very effective tool to law enforcement agencies in charging perpetrators with a crime and then finger printing and photographing the perpetrators, which they do not want done.

6. A third option that law enforcement agencies can use are tax violations. Home improvement contractors must possess tax permits issued by the Department of Revenue Services and must also display a permit. **The criminal charge for failing to possess a tax permit or also failing to**

**display or carry the permit is Sec. 12-409 and carries a fine of \$500.00, 90 days imprisonment or both.** The majority of con artists do not possess tax permits because they want to avoid reporting their income which amounts to hundreds of thousands of dollars a year in cash, tax free. **Please note that this charge can be used regardless of whether or not the contractor was registered.**

7. A fourth option available to law enforcement that can be very effective only when the victim is 60 years of age or older, or is blind or physically disabled, is **Sec. 53a-123(a)(5) - Larceny 2nd Degree.** The statute states: "A person is guilty of larceny in the second degree when . . . the property, regardless of its nature or value, is obtained by embezzlement, false pretenses or false promise and the victim of such larceny is sixty years of age or older or is blind or physically disabled." The pitchman or salesman can be charged with 53a-123(a)(5) and the other suspects can be charged with **Sec. 53a-48 - Conspiracy to commit 53a-123(a)(5).** The charge of larceny second degree allows for the *in rem* proceedings of the vehicles and equipment used by the perpetrators. This is very effective because it will hurt the suspects in their pocket books, because the vehicles in most instances are bought new and with cash. It also stops the scam from continuing if the suspects can post bail, but they do not have use of the vehicles and equipment.

**CONCLUSION:** The most effective way in dealing with home improvement fraud and the con artist is to utilize the criminal statutes mentioned together or alone depending on the situation in order to affect an arrest and booking of the perpetrator and getting the victim back their money. The con artist does not want his fingerprints and photograph available to law enforcement for fear of being identified in other crimes. This also slows down the operation, but will not stop them. The end result, however, is that the operators will leave and move on to another town or state, but will have convictions on their record that can assist other law enforcement agencies in prosecution when the opportunity arises.

If you have any questions please contact me at office: (860) 713-6132 or cell: (860) 305-5547, [Robert.nakano@ct.gov](mailto:Robert.nakano@ct.gov).