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Introductions

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**State
Prosecutors**

Randy Schneider

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What is elder abuse?

When an older adult experiences:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect
- Financial exploitation

(Any of the above may co-occur with each

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What is Financial Exploitation?

- Illegal or improper use of an older adult's funds, property or assets.
- Because not all older adults use the banking system, consider cash, gold, jewelry, antiques, and homes as assets.

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Methods of Financial Exploitation

- Scams
- Identity theft
- Theft
- Coercion and extortion
- Fraud and deception
- Abuse of legal authority (i.e., Power of Attorney)
- Manipulation

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Criminal Misuse of Power of Attorney and Guardianship

- Power of Attorney
 - An instrument which delegates to another person authority to make health care and/or financial decisions to another
- Guardianship
 - A court order granting certain powers to a family member, other individual, governmental agency, or institution to control the affairs of another person

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Criminal Misuse of Power of Attorney and Guardianship

- Determine if guardian or person with the POA spent victim's money on themselves rather than to benefit victim.
- Get copy of POA/guardianship documents.
 - Check POA for gifting provision.
- Check for prior complaints or investigations involving either the victim or suspect.
- Work with local experts – probate court and APS.

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Financial Institutions

Annette McKeough

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Financial Institutions Responsibilities

Financial Institutions play an important role to help detect, prevent, and report financial exploitation of elders and vulnerable adults. They should have an internal program for all colleagues who investigate, document and report concerns of financial exploitation that include:

- Documenting the referral
- Reviewing account relationship: transaction history, internal bank notes, signature cards and legal documents
- Obtaining relevant video surveillance or inbound/outbound call recordings
- Conducting customer or branch colleague interviews
- Completing appropriate account maintenance: block or close account, update authorized account owners
- Reporting and follow-up to appropriate agency

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Detecting elder financial abuse

Process that provides continual training on:

- Financial exploitation trends
- Red flags
- Current regulations and regulatory updates

Internal and external referrals continue to be a main detection source that help financial institutions identify financial exploitation. Internal referrals can be received from:

- Branch personnel
- Customer Care
- Back Office Operations
- Investment Services
- Loan services

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Detecting elder financial abuse

External referrals can be received directly from:

- Adult Protective Services
- Law Enforcement

All referrals are investigated and reported to Adult Protective Services or Law Enforcement if there are concerns of financial exploitation.

Referrals that involve life threatening or customer safety concerns warrant immediate contact with Adult Protective Services or Law Enforcement to protect the safety of the elder or vulnerable adult.

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What are the Red Flags?

Financial Institutions should also provide detailed training for all their colleagues to recognize the Red Flags of potential financial exploitation. Should a colleague within the institution identify Red Flags, a referral should be made to the appropriate department within the financial institution for further investigation (i.e., Fraud and Financial Crimes Department).

Common Red Flags displayed by the elder or vulnerable adult:

- Engages in unusual, erratic or uncharacteristic bank activity (large withdrawals, NSF activity, wires, closing CD's)
- Lacks knowledge of their financial status or reluctant to discuss
- Acts in a secretive manner
- Suddenly acquires new acquaintances

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What are the Red Flags?

Common Red Flags continued:

- Executes POA and is confused by consequences of their actions
- Makes changes to property titles of death designations
- Changes longstanding POA designations
- Indicates mail is no longer delivered to their home
- Appears afraid of the person who accompanies them to the bank
- Bank is unable to speak with the Elder directly
- A normally friendly elderly customer begins to withdraw socially, will not engage in conversation with bank employees
- Nursing Home employee or caregiver appears as a POA or POD on elder's account

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Financial Institutions Responsibilities

If financial exploitation is suspected based on the findings of the investigation, a referral must be made to the Adult Protective Services or Law Enforcement agency. The referral should include a comprehensive narrative of the investigation, date of the agency referral, as well as supporting case documentation.

In addition to the referral, the financial institution should consider placing a block or freeze on all deposit, card, online, and mobile banking accounts to preserve the victim's assets, pursuant to their standard operating procedures.

Financial Institutions should also follow FinCEN guidelines for SAR filing(s) regarding Elder Financial Exploitation and conduct appropriate investigation follow-up(s) to identify and report any continuing activity.

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Adult Protective Services

Doreen Goetsch

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Wisconsin's APS System

- Wisconsin is a county based system
- Each county must designate (per WI statute) both an Elder Adult at Risk Agency and an Adult at Risk Agency
- Must advertise a phone number where abuse and neglect can be reported

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Wisconsin APS Statutes

- Section 46.90 (Elder Abuse Reporting System)
- Chapter 54 (Guardianship)
- Chapter 55 (Protective Service System; Adult-at-Risk Reporting System)

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APS Reporting in Wisconsin

- Limited required reporters
- Voluntary reporters
- Caregiver misconduct reporting system

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Who Is Considered an Adult at Risk?

- A person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

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Agency Responsibilities

- Respond to and investigate reports
- Offer services
- Make referrals to law enforcement and other community-based agencies
- Initiate appropriate legal responses

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APS Investigations

- APS investigations may include one or more of the following:
 - Visiting the residence
 - Observing or interviewing and individual
 - Interviewing the guardian or agent under a power of attorney
 - Reviewing treatment and patient health care records
 - Reviewing financial records

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Release of Financial Records

- Financial records shall be released without informed consent under the following circumstances:
 - If contact with the agency is initiated by the financial institution
 - Under a court order
 - An investigation by Adult Protective Services or another investigative agency is initiated under Wis. Stat. 55.043(1r)(b)6.a and b.

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Financial Exploitation Numbers in Wisconsin

- In 2019, there were 2003 reports of financial exploitation investigated by APS.
- This represents 20% of all reports received.
- Second largest category investigated next to self-neglect.

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Who Commits Financial Exploitation?

- Strangers
- Trusted Individuals
 - Family members and friends
 - Partners
 - Caregivers
 - Strangers who become "friends" (sweetheart scams)
 - Lawyers, doctors and faith leaders and representatives
 - Interpreters who have a unique trust relationship
 - Guardians, Powers of Attorney and other legal representatives

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Collaboration

- Collaboration is the key to success when investigating financial exploitation cases.
- Collaborate with:
 - Law enforcement, key banking personnel, and your local District Attorney.
 - Invite them to participate in your local I-Team.
 - Share tough and challenging situations and also success stories.

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Law Enforcement

Loreen Glaman

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2018

161% increase
17.5 % in one year



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Law Enforcement Role

- Interviews
- Collect Evidence
- Exam Records
- Analyze and Prepare Reports



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Case Initiation

- Reports from Citizens
- Reports from Other Agencies
- Reports from Banks
 - Records without a Subpoena
 - SAR's

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SAR's as a Law Enforcement Tool

- US Dept. of Treasury
- Bureau: Financial Crimes Enforcement Network (FinCEN)
- Suspicious Activity Reports: SAR
 - Financial institutions file when activity is suspicious or has no legitimate purpose
 - Used for lead information only and cannot use info in report or affidavit
 - LE can request banking records without a subpoena

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SARS Reports

Month	2014	2015	2016	2017	2018	2019
January	65,898	66,101	70,460	75,234	75,619	88,130
February	61,637	65,984	73,927	73,806	71,908	86,497
March	64,462	73,420	83,964	88,071	87,326	97,933
April	73,302	74,049	81,282	77,383	78,763	91,088
May	75,301	68,216	80,822	77,500	84,790	95,166
June	71,773	77,162	91,400	77,568	79,736	85,967
July	75,559	77,508	83,284	69,150	79,409	92,161
August	70,856	75,503	84,726	82,948	90,955	97,649
September	70,703	75,863	78,014	72,517	76,220	90,842
October	77,735	78,096	76,943	76,284	89,545	104,884
November	63,761	71,500	75,599	75,756	84,271	91,112
December	68,327	76,505	78,116	70,066	79,161	94,971
Subtotal	839,314	879,907	956,537	916,283	977,703	1,116,400
Total Filings	5,488,144					

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SARS Filing

The screenshot shows the FinCEN SAR Filing interface. It includes sections for 'Filing Information' (Reporting Institution Name, SAR Number, Filing Date) and 'Subject Information' (Name, Address, Date of Birth, etc.). The interface is a web-based form with various input fields and dropdown menus.

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Law Enforcement Responsibility

- Prove the elements of a crime: The “facts”
 - Set of facts that must be proven
 - Facts vary by statute and state

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Collaboration

- Gathering evidence
- Reports
- Records

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Questions for the Panel



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Resources on Elder Abuse

- Wisconsin Elder Abuse Hotline
 - www.ReportElderAbuseWI.org
- Elder Rights Project
 - www.legalaction.org/services/elder-rights-project-elder-abuse-victims
- Department of Health Services
 - www.dhs.wisconsin.gov/aps
- National Center on Elder Abuse
 - <https://ncea.acl.gov>
- National Clearinghouse on Abuse in Later Life
 - www.ncall.us

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Thank You!

Thank you to all of you who are on the front line battling the ever increasing and complicated cases of financial exploitation.



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