

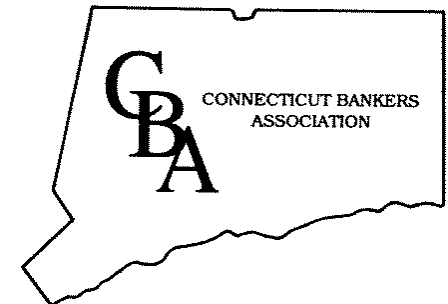
PREVENTING ELDER FINANCIAL EXPLOITATION: *The Role of Financial Institutions in Connecticut*

Presented by:

Date:



Partners



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Special thanks to the work and counsel of the Maine SeniorSafe program and the Maine Council for Elder Abuse Prevention, Massachusetts Bank Reporting Project, Oregon Bankers Association and Oregon Department of Human Services.

About this Presentation

This presentation was created to provide information and guidelines for banking and other financial institutions in Connecticut.

If you would like to contact the committee, you can do so by emailing

Mimi Peck-Llewellyn J.D., at marie.peck.llewellyn@ct.gov

Attorney, Connecticut State Department on Aging

Elder Rights Advocate, CEJC

Disclaimer

- The information provided in these materials is general information, may contain errors, and is not intended to be relied upon as legal advice.
- While information pertains in part to legal issues, it is not a substitute for individualized advice from your own counsel.
- Anyone seeking specific legal advice or assistance should retain an attorney.

Workshop Agenda

PART 1 Introduction to the Problem

PART 2 Benefits of Identifying & Reporting Exploitation

PART 3 Financial Institutions Can Make a Difference

PART 4 Case Studies

Workshop Goals

- **Prevention**
- **Recognition**
- **Improved Response & Outcomes**

INTRODUCTION TO THE PROBLEM

Part 1

Why is Addressing this Issue Important?...

It Can Happen to Anyone



“To those seniors and especially elderly veterans like myself, I want to tell you this: You are not alone and you have nothing to be ashamed of. If elder abuse happened to me, it can happen to anyone.” ~Mickey Rooney

Connecticut's Aging Population

- We're an old state
- 2030, 30% of population will be 60 years or older
- We have a high life expectancy

Older Adults are Targets:

Income

- 34% of America's net worth
- Accumulated savings
- Steady monthly income
 - Social Security
 - Pension
 - Investments

Older Adults are Targets:

Vulnerabilities Related to Aging

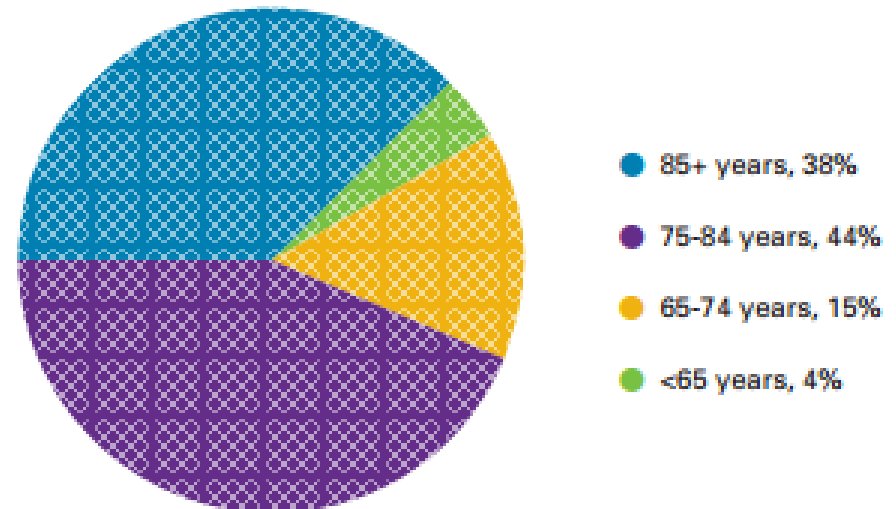
- Changes in managing finances
- Decline in financial literacy and knowledge
- Dementia

Dementia In Connecticut

- 13% of senior population (2014)
- 25% increase by 2025
- Greatest risk stage:
 - Mild Cognitive Impairment (MCI)

figure 1

Proportion of People With Alzheimer's Disease in the United States by Age



Percentages may not total 100 because of rounding.
Created from data from Hebert et al.^{(14), 43}

Being An Older Adult = Being At Risk

- **\$36.5 billion** is the financial cost of elder financial abuse
- **1 in 5** are victims of financial abuse
- **37%** of adults age 50-70 in recent major study lost money
- **90%** of perpetrators are trusted others
 - **47%** are adult children

Impact of Financial Abuse

More than just money, you lose:
health, emotional well-being and quality of life

↑ **Depression & anxiety**

↑ **Skipped medical care**

↓ **Health & nutritional intake**

- Medicaid support, state assistance
- 1 million seniors skip meals as a result

BENEFITS OF IDENTIFYING & REPORTING EXPLOITATION

PART 2

Benefits of Identifying & Reporting

Community Benefits

- Improved safety
- Financial independence
- PREVENTION!

Business Benefits

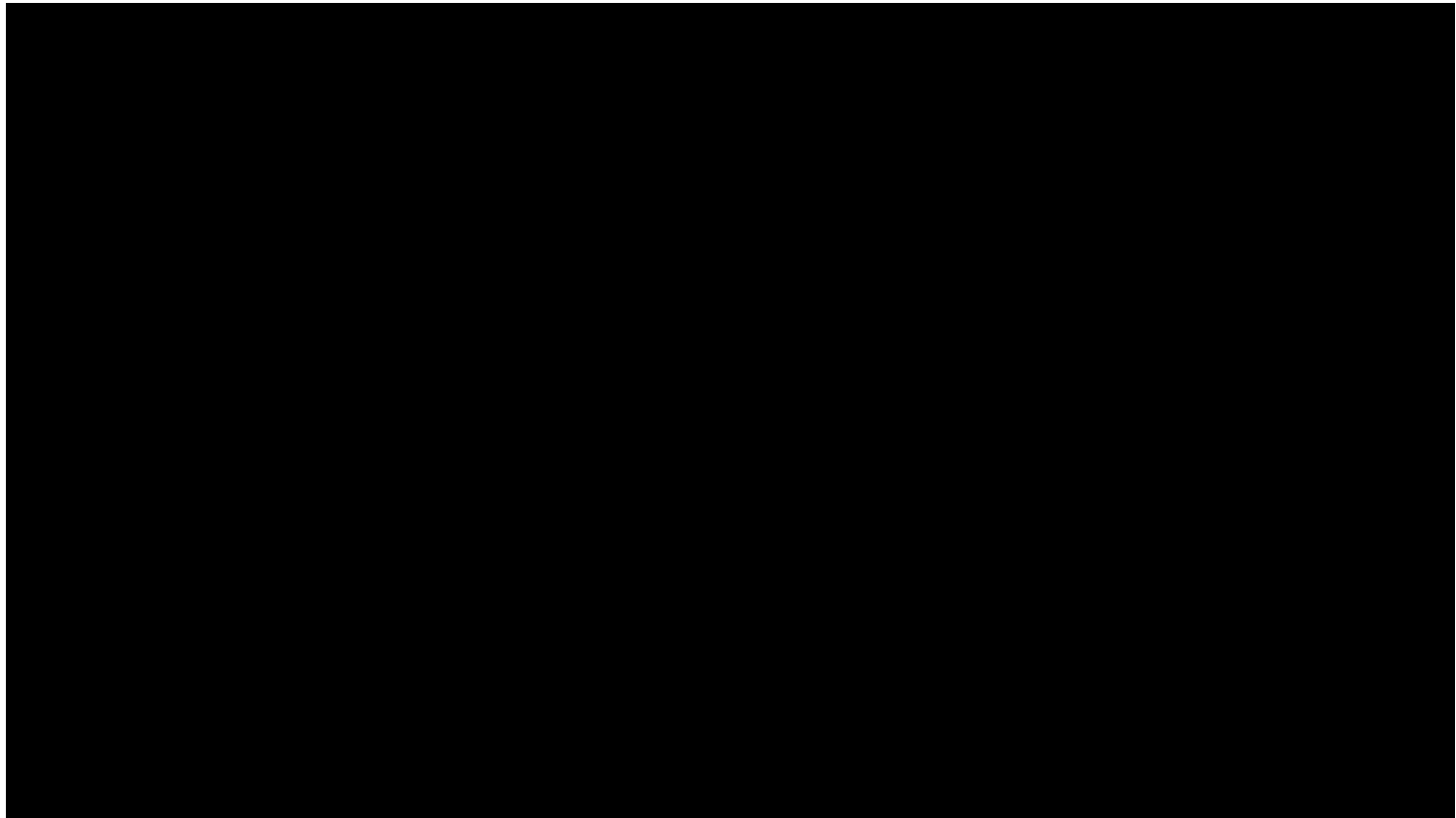
- “-ions” – reputation, recognition, satisfaction
- ↓ Uninsured losses

Financial Institutions Can Play a Key Role

YOU may be the first to encounter financial abuse

- Frontline staff
- Utilize proactive measures
- Promote best practices
 - Reporting
- Reveal potential ***POLYVICTIMIZATION***

You Are Often First Voice of Reason



It's Also Important to Act because...

- May be a crime
- May be preventable

FINANCIAL INSTITUTIONS CAN MAKE A DIFFERENCE

PART 3

Outline

- 1. Recognizing the signs of elder financial abuse**
 - Definitions of elder abuse
 - Red Flags of elder abuse

- 2. Protecting your older customers**
 - Gathering information
 - Checking proper documentation

- 3. Referring or reporting suspected financial abuse**
 - Following internal protocol
 - Reporting to your supervisor
 - Repeat reporting

1. RECOGNIZE THE SIGNS

LEARN TO IDENTIFY SIGNS THAT COULD INDICATE ACTUAL OR POTENTIAL FRAUD, EXPLOITATION, OR ABUSE

This section will:

- Definitions of elder abuse and financial exploitation
- Review red flags of elder abuse and financial exploitation

DEFINITIONS

DEFINITIONS

Elderly

- Any resident of Connecticut aged 60 years or older.

Elder Abuse

- Any knowing, intentional, or negligent act by any other person, causing harm or serious risk of harm to a vulnerable elderly person

DEFINITIONS

Elder Financial Exploitation

- Act or process of taking advantage of an elderly person for monetary, personal or other benefit, gain or profit.
- If illegal, may be: larceny, theft, identity theft, false instrument, fraud, forgery, embezzlement

RED FLAGS

Elder Abuse

RED FLAGS

Elder Abuse

Suspicious **BEHAVIOR** that could indicate actual or potential abuse, fraud or exploitation.

- ***Concerning tone or content*** of language directed towards older adult
- ***Noticeable neglect*** or decline in appearance,
- ***Increased confusion***, wording-finding problems, memory issues
- ***Expresses stress*** regarding personal life and relationships

RED FLAGS

Elder Financial Exploitation

BEHAVIOR

RED FLAGS

Elder Financial Exploitation: BEHAVIOR

- ***Unusual degree*** of fear, anxiety, submissiveness or deference of elderly customer
- ***Lacks knowledge*** about personal financial status
- ***Excessive interest*** in elderly's finances or accounts is expressed by trusted other
- ***Unexplained or unusual excitement over a financial windfall*** or prize check

RED FLAGS

Elder Financial Exploitation: BEHAVIOR

- ***Noticeable neglect*** or decline in appearance, grooming, or hygiene.
- ***New inability to afford cost of daily living*** is expressed
- ***Sudden appearance of previously uninvolved relatives*** claiming their rights
- ***New associations*** with “friends” or strangers

RED FLAGS

Suspicious Account Activity

RED FLAGS

Suspicious Account Activity

- ***Noticeable change in banking or financial management habits***
 - Frequent & large withdrawals
 - Sudden Non-Sufficient Fund (NSF) activity
 - Inconsistent debit transactions

- ***Uncharacteristic nonpayment*** for services

- ***Disregard to penalties*** when closing of CDs or accounts

RED FLAGS

Suspicious Account Activity

- ***Sudden changes*** in who is conducting financial transactions on behalf of client
- ***Abrupt changes to financial documents*** such as power of attorney, joint accounts, account beneficiaries
- ***Making requests beyond legal authority*** outlined in provided documents
- ***Monies not being used in the interest or intent*** of the customer

RED FLAGS

Suspicious Account Activity

- ***Change of address*** on accounts to new recipient's address
- ***Previously inactive account or new joint account*** are suddenly active
- ***Suspicious signatures***
- ***Unexplained disappearance of funds*** or valuable possessions

FinCEN Top Reported SARs Activity

1. Coercion
2. Abuse of POA
3. Unusual wire activity

2. PROTECTING YOUR OLDER CUSTOMERS

THESE ARE SUGGESTED STEPS TO ASSIST EMPLOYEES OF FINANCIAL INSTITUTIONS IN DETERMINING IF QUESTIONABLE TRANSACTIONS SHOULD OR SHOULD NOT BE PROCESSED

This section will:

- Prevention Steps
- Gathering information
- Checking proper documentation

PREVENTION STEPS

PREVENTION STEPS

Opening A Joint Account

- ***Understand reason*** for adding joint owners to account.
- ***Listen or look for signs of dementia***
- ***Ask if anyone has Power of Attorney or is Conservator***
- ***Speak with client alone:*** tell other person it's standard safety practice to speak alone with client before opening joint account.
- ***Explain implications of joint account***
Make sure client understands risks and ownership rules.

PREVENTION STEPS

News About Joint Accounts

JOINT ACCOUNT ACTIVITY MAY BE CRIMINAL

New Criminal Case Law: State vs. Lavigne:

- CT Supreme Court
- Ruled banking law defines who has **access** to joint account, but does not determine ownership of funds in a joint account.
- Up to jury to decide based on evidence

GATHERING INFORMATION

GATHERING INFORMATION

**Large
Transactions**

OR

**Frequent
Withdrawals**

- ***Learn the reasons*** for the change in account activity
- ***Gather explanations*** from your customer NOT from the person who might be accompanying them
- ***If your customer is prevented from answering*** or the person accompanying them answers, this may be a sign of financial exploitation

CHECKING DOCUMENTATION

CHECKING DOCUMENTATION

Authority to Act for an Elderly Person

- ***Exaggerating or Misunderstanding authority for an elderly person*** is common for people who commit financial exploitation
- ***Check all proper authorization & documentation***
 - Signature cards
 - Power of Attorney
 - Conservatorship/Guardianship*

3. REPORTING OR REFERRING ELDER FINANCIAL ABUSE

LEARN TO REFER TO YOUR INTERNAL PROTOCOL FOR REPORTING ELDER FINANCIAL ABUSE AND CONSIDER ALTERNATIVES TO REPORTING IF AN INTERNAL PROTOCOL IS NOT IN PLACE.

This section will:

- Advocate you follow internal protocols on how to report
- Instruct you on informing client of need to involve supervisor
- Instruct you on how and why to repeat reporting

FOLLOWING INTERNAL PROTOCOL

FOLLOWING PROTOCOL

Personnel Should Note

- ***Internal Protocol*** is one provided by your place of employment
 - Tell your supervisor
 - If no protocol, still report to supervisor

- ***Time*** the sooner a report is made, the faster the exploitation can be stopped

- ***“Proof”*** tangible proof is not necessary, suspicion is adequate
 - ***Determination of financial abuse & exploitation is made by***
 - Law enforcement
 - Protective Services for the Elderly

REPORTING TO YOUR SUPERVISOR

TELL YOUR CLIENT

Personnel Should Note

- ***If there is a suspicion or concern*** consider explaining to client that a supervisor must review the request

- ***What your supervisor can do***
 - SEPARATE
 - EXPLAIN
 - DELAY OR STOP TRANSACTION
 - NOTIFY

REPEAT REPORTING

REPEAT REPORTING

Personnel Should Note

- ***Remain vigilant***
- ***Respond and report*** when new details and incidents occur

REPEAT REPORTING

Personnel Should Note

- ***Financial exploitation and abuse*** increases the risk of victimization
- ***Victimization can continue*** after your initial report
- ***No sufficient proof*** is available to pursue an investigation from first report
- ***A person may refuse help the first time,*** but not subsequently

CASE STUDIES

PART 4

CASE STUDIES

THESE CASE STUDIES ARE BASED ON ACTUAL EVENTS. While names and locations are fictional, scenarios like these are very real

This section will:

- Encourage you to recognize the Red Flags of elder financial abuse and exploitations
- Encourage you to determine what steps should be taken

Mrs. Jarvis: Background

Mrs. Jarvis is a 76 year old widow and a loyal customer of Husky Credit Union (HCU) for over 2 decades. She is well known by the branch employees and they can always expect to see her on Monday afternoons when she comes in to make deposits and withdraw her weekly spending money. Today she came into the branch a second time this week. Mrs. Jarvis approached Jeremy, a teller at HCU, and asked to have \$4,000 transferred from her savings account to her checking account.

Mrs. Jarvis: Questions

- **Do you have any concerns about the situation?**
- **What do you think you would do next?**

Mrs. Jarvis: Gathering Information

Upon her request, Jeremy becomes concerned. He has known Mrs. Jarvis since he started working at HCU and has worked with her on several transactions. However, this is an unusual request. Jeremy knows that Mrs. Jarvis currently manages her own finances and seems fully mentally aware. She is very physically active, as she mentions how often she walks, everyday, and is able to visit the bank weekly, and independently, to deposit and draw out cash to pay her bills. All of the accounts are in her name, since her husband passed away 2 years ago.

Mrs. Jarvis: Gathering Information

Jeremy politely asks Mrs. Jarvis why she is making such a large transfer. A tad frustrated, Mrs. Jarvis explains that she has been promised \$500,000 in winnings from a lottery drawing in the United Kingdom. She explains to Jeremy that they have been sending her notifications and reminders that if she does not send in an administration fee of \$5,000, by a specified date, the winnings will become null. Mrs. Jarvis shows Jeremy the letter, which looks very official, and goes on to admit that she has been sending amounts ranging between \$50-\$100. She is worried about missing the deadline to receive the winnings, and would like to meet the deadline by sending in one final payment.

Mrs. Jarvis: Questions

- **What are the red flags here?**
- **How would you respond to Mrs. Jarvis explanation?**
- **What would you consider reviewing upon hearing Mrs. Jarvis' explanation?**

Mrs. Jarvis: Gathering Information

Jeremy respectfully voices his concerns to Mrs. Jarvis that this may be a scam and that she is not likely to receive any money. She does not believe Jeremy though, and is confused why it would not be true. She tells Jeremy that she wants the money to leave for her children and grand children when she passes away. Jeremy asks her what her family thinks about this situation and she mentions that her son has also said this is a scam. She says that because of this she no longer discusses her financial affairs with him. Jeremy remains concerned. Since all of her accounts are in her name, it is difficult to speak with any of her family about the situation without committing a breach of confidentiality.

Mrs. Jarvis: Questions

- **Is there anymore information Jeremy can gather and how?**
- **Are there other steps he might consider at this point?**

Mrs. Jarvis: Gathering Information

Jeremy takes a moment to review Mrs. Jarvis' account history. He notices that whereas in the past she tended to withdraw small and like-amounts of cash on a regular, weekly, basis, the amounts she is withdrawing have become larger and more frequent.

Mrs. Jarvis: Questions

- **How should Jeremy handle this information and what should his next steps be?**

Mrs. Jarvis: Next Steps

Very concerned, Jeremy informs Mrs. Jarvis that he must speak with his supervisor to review her request. He asks Mrs. Jarvis to please wait a moment while he speaks with his supervisor.

Jeremy approaches his supervisor and explains the situation. Equally concerned, Jeremy's supervisor asked to speak with Mrs. Jarvis in his office.

Mrs. Jarvis: Summary & Added Notes

- Always review the knowledge you have about your customers.
 - Habits and behaviors: financial, social and personal (if known).
 - Access what information you have on hand. For example, account activity history.
- Educated yourself about elder financial abuse and exploitation
 - Scams: Foreign lotteries are illegal
 - AARP Fraud Watch – tracks client reported scams
 - Any internet news search “elderly financial abuse or scam”
- If you are having concerns, consult with your supervisor.
- If nothing can be done immediately, or at first, remain vigilant.

Mrs. Jarvis: Common Scam Tactics

- **Gain trust and confidence** through charisma by using a business name similar to a well-established organization or by communicating concern for the elders well-being.
- **Indicate that the elder is lucky** or has been chosen
- **Ask them to make an immediate decision** with a limited offer
- **Secrecy:** Ask the victim not to discuss the details as it is a “special” offer
- **Closing the deal quickly** with little risk of exposure to the perpetrator

PREVENTING ELDER FINANCIAL EXPLOITATION: *Reporting and Referring for Supervisors*

Presented by:

Date:



A Note About This Information

- **Overview** of legal issues related to this topic area
- Materials do not provide and should ***not be considered legal advice***

Workshop Goals

- **Model Response**
 - Identification of abuse
 - Responding to requests from Protective Services for the Elderly
- **Confidentiality**
- **Obligations and Options**

INTERNAL PROTOCOL

Developing Internal Protocol

Each financial institute should develop a written protocol for internal reporting suspected exploitation of a vulnerable adult.

- Eliminates confusion and delay in response
- Delegates reporting responsibility
- Improves reporting efficiency

MODEL PROTOCOL

Model Internal Protocol

- When a teller has a concern
 - Who should they tell?
 - When should a supervisor or other senior officer be told?
- Who will determine if and/or make a report to local, state or federal agencies?
- What information or documentation should be gathered?
- What information should be provided to state agencies or local law enforcement?
- Who will respond to requests from Protective Services for the Elderly?

MODEL INTERNAL PROTOCOL

ACTION STEPS

That Might Be
Included In An
Internal Protocol

FRONT LINE STAFF OPTIONS

- Front line staff **immediately report** to supervisor.

- And/or:
 - Interview, inquire, gather information

 - Counsel client on implications and alternatives

 - Share an “awareness” document

 - Gently suggest or provide evidence of foul play to customer

 - Check documentation of third party

 - Contact security or law enforcement

MODEL INTERNAL PROTOCOL

ACTION STEPS

That Might Be
Included In An
Internal Protocol

MANAGER OPTIONS

A model internal policy may advocate managers:

➤ SEPARATE

- Even if teller has already spoken to the customer alone, consider talking with them additionally.

➤ EXPLAIN

- Advise customer on risks, options, and concerns
- Seek consent from customer

➤ DELAY OR STOP TRANSACTION

➤ NOTIFY

- Suspicious Activity Report
- Other internal levels of management
- Law enforcement
- Other outside parties

Interviewing Older Clients

Stress may create
communication
problems

THINGS TO CONSIDER

- Ensure they have all assistive devices. Ex. Glasses, hearing aids, dentures
- Minimize background noise
- Look for signs of dementia:
 - Poor financial competency
 - Word finding, language problems
 - Memory & recall
 - Poor awareness (insight)
 - Impulse & impaired judgment

Interviewing Older Clients

Stress may create
communication
problems

THINGS TO CONSIDER

- Show records or evidence of concerns. Note their response.
- As much as possible encourage involving a third party:
 - Family member or friend
 - Their attorney
 - Dept. of Social Services Protective Services
 - Town Social Worker

QUESTIONS OR THOUGHTS?

ABOUT PROTOCOL CONSIDERATIONS

CONFIDENTIALITY: LAWS, EXCEPTIONS, IMPACT

Specific to older adult exploitation

Confidentiality Laws

CONNECTICUT

- **CT General Statute**
 - 664 C.G.S. § 36(a)-42

Financial institutions may not disclose financial records to any person except the customer or the customer's authorized agent.

FEDERAL

- **Gramm Leach Bliley Act**
 - 15 U.S.C. § 6802

Financial institutions may not disclose **nonpublic personal information** to non-affiliated third parties without providing notice to the customer and an opportunity to opt-out

Exceptions to Federal Confidentiality Law

Cases of elder abuse may be reported to local, state, federal authorities/agencies under the following exceptions:

- To protect or prevent fraud, unauthorized transactions, claims or other liability
- To law enforcement regarding public safety
- With consent of consumer
- Subpoenas
- States with mandated requirements to report

Reporting to Dept. Social Services/PSE in CT

Connecticut

- Financial Institutions are **not required** to report to PSE
- Financial Institutions may *voluntarily* report:
 - Nonpublic information under federal exception guidelines
 - Public information
 - Publicly viewed safety concerns, and/or concerns of behavior or well-being in branch
 - Immunity from liability for good faith reporting

QUESTIONS?

ABOUT CONFIDENTIALITY & DISCLOSURE?

REPORTING OBLIGATIONS & REFERRAL OPTIONS

Reporting Routes

- Federal Mandatory Reporting –SAR
- State Reporting & Referral for Services with Consent
- State voluntary reporting to state or local agencies
 - (without client consent)

Calling 911

Always call 911 if you believe that a customer is in **immediate danger!**

Federal Mandatory Reporting Requirements

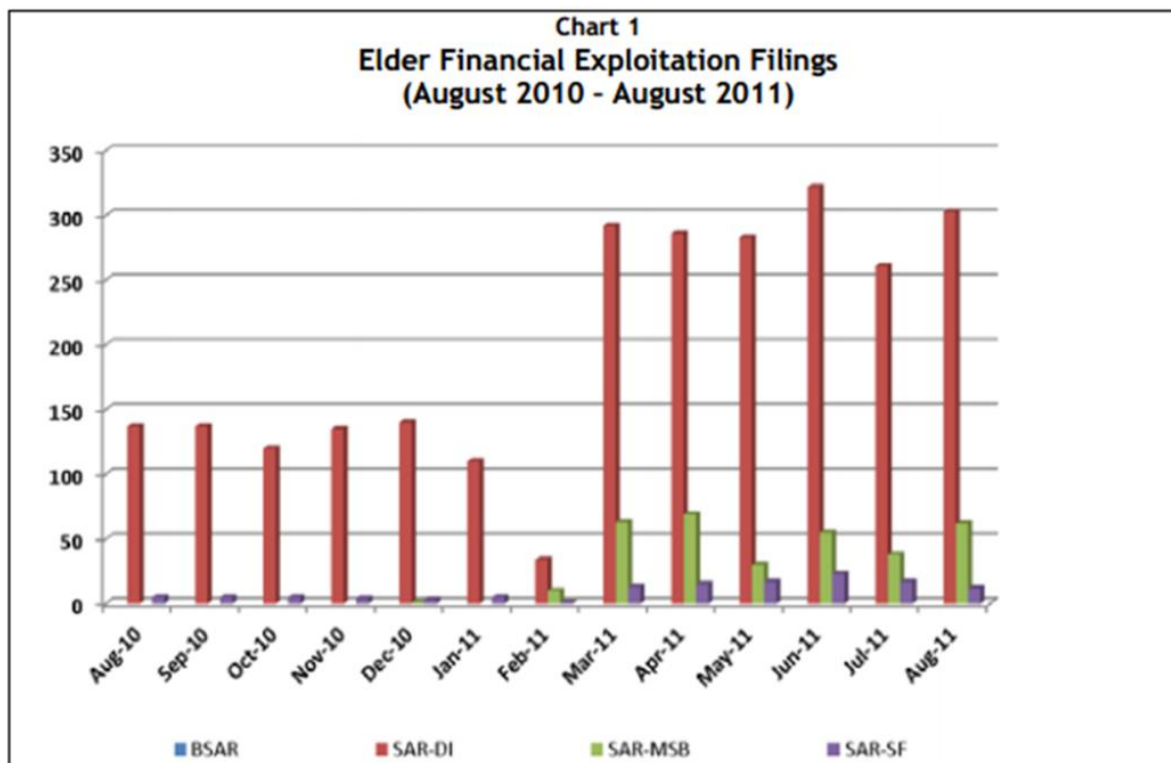
FinCEN: Suspicious Activity Report (SAR)

- ❑ A SAR is appropriate where the financial institution knows, suspects, or has reasons to suspect that a transaction had no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts.
- ❑ The Financial Crimes Enforcement Network (FinCEN) requests that financial institutions include the term “**elder financial exploitation**” when filing a SAR in instances of financial exploitation of the elderly. See FIN-2011-A003.

Impact of Change in SAR Guidelines

2011 – Advisory to include “elder financial exploitation” in SAR

382% increase in reports



Mandatory Reporting Requirements

FinCEN: Suspicious Activity Report (SAR)

- **NOT a substitute for local reporting**
 - Although it may eventually lead to involvement of local authorities
 - Financial institutions are encouraged by the CFR to file a copy of the SAR with state and local enforcement agencies where appropriate

State Reporting & Referrals with Consent

When a client voluntarily is open to help:

- ❑ Document client consent to share information with third party.
- ❑ Each situation is unique, but it is crucial that the responsible manager/supervisor consider all options and if at all possible make **at least** one referral

State Voluntary Reporting without Consent

When to consider reporting to PSE without customer consent:

- Signs of incapacity
- Personal care or well-being concerns (not financial)
- Undue influence
- Inability to talk to senior
- Significant funds (for that person) are at stake

Reporting Without Consent

What local resources can you call without consent?

- Law Enforcement
 - Non-emergency issues excepted under GLBA
 - Ex. Check fraud or forgery, cashing coins more than face value, senior or person accompanying is intoxicated
- DSS: Protective Services for the Elderly
 - You may report name of individual, perpetrator, and concern about account activity.
 - Do not share: dollar amounts, type of accounts, specifics of transactions unless fall under federal exceptions
 - PSE will be required to seek further consent or involved court if consent cannot be granted before obtaining more information.

REFERRAL OPTIONS

Impact of Involving PSE Social Workers

- **Evaluate**

- Situation
- Capacity
- Well-being

- **Devise plan of care aimed at**

- Enhancing an elder's safety
- Preserving their right to self-determination

- **Services Provided**

- Crisis intervention
- Arrange for and coordinate:
 - Adult day program
 - Companion/Homemaker
 - Home health care
 - Counseling
 - Home delivered meals
 - Long-term care
 - Emergency housing

Impact of Disclosure: Involving PSE

- **In extreme cases**
 - Can seek court authorization to provide services to a person who appears to “lack the capacity” to give consent to reasonable and necessary services
 - Apply to the Probate court for the appointment of a Conservator

Response Timeframe

- Response to initial reports: must triage based on risk
 - Immediate – same day
 - 2-3 days
 - 3-5 days
- Temporary conservatorship: Same week to freeze accounts until competency hearing may be held
- Full conservatorship orders: Can take up to 6 months for probate court to appoint

Other Referral Options

- **CT Dept. of Banking** – Consumer Affairs Team for further guidance and resources, can assist in determination of whether to investigate or refer to another agency. 1-800-831-7225.
- **Legal Services for the Elderly** – Help them make the first call. Provides free legal services to all seniors; POA help. 1-800-453-3320.
- **Consumer Law Project for Elders** – consumer debt and identity theft. 1-800-296-1467
- **Agency on Aging** – benefits, care, and supportive services. 5 regional centers statewide. Must locate your region branch on their website to contact.
- **Domestic Violence Hotline** 1-888-774-2900
- **Sexual Assault Hotline** 1-888-999-5545

Repeat Reporting

- Reminder to repeat reporting
 - Slow process, which may necessitate repeat reporting to allow building of evidence and action to be taken/accepted
 - Many individuals and organizations may be involved
 - Lack of follow-up, both internally and externally
 - Confidentiality may limit how much information can be shared with the reporting institution or reporting individual

Best Practices Summary

- Summary of best practices:
 - Train
 - Create protocol
 - Seek anonymous guidance if unsure
 - Report
 - Refer – help customer make referral as much as possible
 - Repeat report
- Keep scam or exploitation examples on hand

QUESTIONS?
