

“It is not just a civil matter” - how to
overcome barriers to successful
investigation of elder financial exploitation

Abingdon, Virginia

June 9th, 2023

Presented by

Paul Greenwood,

Newly “retired” Deputy District Attorney,

San Diego County, California

From UK lawyer to
California prosecutor



My decision to “retire”...

\$37 billion

How Criminals Steal \$37 Billion a Year from America's Elderly

Telephone pitchers, online scammers and even family members target the most vulnerable among us. And it's about to get worse.

[More stories by Nick Leiber](#) May 3, 2018, 1:00 AM PDT

My Elder Abuse journey
began

January 1996

This became my
assignment for the next 22
years...

Why?

Primarily two reasons...

I had an office, a phone, a
computer but....

No cases!

Just silence!



Break the Silence

Report Elder Abuse

1-800-252-8966 (Voice and TTY)

Lessons learned on my 22 year journey of prosecuting serious elder abuse cases

It Takes a Community:

K E E P I N G

O U R E L D E R S

S A F E

“Alone, we can do so little;
together we can do much.”

Helen Keller

So what do we mean by
elder financial exploitation?

There is no national
consensus... each State has
its own definition for the
victim & the crime

In Virginia..

The victim is described as
vulnerable...

S 18.2-178.1

Any person 18+ impaired
by mental illness,
intellectual or
developmental disability, or
other causes, including
age...

To the extent the adult
lacks sufficient
understanding or capacity
to make, communicate or
carry out reasonable
decisions....

Concerning his or her well-being or has limitations that substantially impair adult's ability to independently provide for daily needs...

or safeguard his or her
person, property, or legal
interests.

Battling the
misconceptions that law
enforcement &
prosecutors often fall
into...

Myth.....

- Elderly people make terrible witnesses

Most common answer...
forgetfulness

Prosecutors need to
know that these cases
have such jury appeal

Myth.....

- If elderly victim gives the money voluntarily, it is not a crime

The “it’s a civil matter”
mindset is pervasive

But things are not always
how they first appear

- There are times when the apparent voluntariness has been diluted by fraud, undue influence or by exploiting the mental limitations of the victim

Sometimes prosecutors fail
to grasp the concept of
lack of consent....

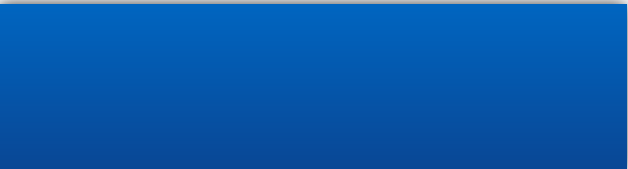
This article appeared
in a prominent
California newspaper
before I retired..

Woman used 10-year-old son as part of scheme to take thousands from two Stanislaus County women

She befriended them and appealed to their compassion with a story of a dying or dead child. She exploited their generosity when she cried to them about her hardships. She used her 10 year-old son for sympathy. But the woman who was investigated for scamming two elderly women out of thousands of dollars likely will not face charges.

But one of the victims, a 90-year-old Modesto woman who asked to be identified only by her middle name, Eileen, for fear of being victimized again, said the \$14,000 in checks she wrote to Medeiros were intended as a loan.

And what was the DA's
office response...

“Simply getting ‘scammed’ by a smooth-talking person is no crime,” District Attorney’s Office spokesman  said in an email. “If money is freely/voluntarily given/donated/gifted, there is no theft. Unless an older person lacks the mental capacity to give consent or undue influence is used to obtain it, elders are free to make gifts or donations to anyone they choose.”

We also need to understand how undue influence can impact the whole issue of consent...

Undue Influence

- Victim 'was pushed in a direction that he did not want to go.'
- The influence by suspect was sufficient to remove the voluntariness of the transaction
- No longer free will
- Victim has been evaluated by a geriatric psychiatrist/psychologist

How to prove undue influence?

- Length of relationship
- Place of first meeting
- Prior spending habits
- Prior “charitability”
- What is left?
- Multiple escalating transactions
- Statements & conduct by suspect

We need to be able to
argue lack of consent much
more forcefully

The consent issue...

Using a geriatric
psychiatrist, a conservator
or simply BWC from the
responding officer...

Lack of consent

- To consent to a transaction a person must:
- Act freely & voluntarily & not under the influence of threats, force or duress
- Have knowledge of the true nature of the act or transaction involved
- Possess the mental capacity to make an intelligent choice whether or not to do something proposed by another person

- Consent requires a free will and positive cooperation in act or attitude

Myth.....

- If elderly victim refuses to provide information, there is nothing that can be done

- We can still build a case by talking to other key witnesses
- Start on the outside and work your way to the middle
- Let the DA figure out a way to break through victim's wall of silence

LESSONS LEARNED FROM DOMESTIC VIOLENCE

- Self-determination is not the answer

“Victim declines
prosecution”

And in a Rhode Island
newspaper article..

Elder-abuse victims are often reluctant to press charges

By Jack Brook, Rebecca Ellis and Katrina Northrop / Special to The Journal

Posted Aug 24, 2018 at 8:52 PM

Updated Aug 28, 2018 at 5:53 PM

Victims' fear of reprisals, dependence on their abusers for their daily care, and reluctance to send a loved one to prison make elder-abuse crimes notoriously difficult to prosecute, authorities say.

Why self-determination is a problem

- If not punished, the perp **WILL** abuse again
- We **CAN** convict even without the assistance of the victim
- Abuse is a crime against **NOT JUST** the abused

Please avoid asking victim if
they wish to “press
charges”

Myth.....

- A Power of Attorney does not provide a license to steal and plunder

VIRGINIA POWER OF ATTORNEY

IDENTIFICATION OF AGENT

I, _____ (Principal name) of _____
(Address, address _____) (Agent name) of _____
_____, (Address), as my agent (attorney in fact) to act for me
and in my name, in my stead, and for my use and behoof, if my agent is unable or unwilling to act for me,
I name _____ (Successor name) of _____
_____, (Address), as my successor agent.

(Check if appropriate. ~~DO NOT CHECK~~)

I hereby give notice that I have revoked, and I hereby revoke, any unnoted power of attorney given or
empowering another agent to act in my true and lawful attorney in fact. I declare that all power and
authority granted under said power of attorney is hereby revoked and withdrawn.

GRANT OF GENERAL AUTHORITY

I grant my agent and my successor agent general authority to act for me with respect to the following
subjects:

IN THIS, each subject you want to include in the agent's general authority:

IN THIS, the line in front of (X) will preclude "Suspense" if you wish to grant general authority over all of the
subjects instead of including each subject.

- _____ (X) Real property
- _____ (X) Tangible personal property
- _____ (X) Stocks and bonds
- _____ (X) Commodities and options
- _____ (X) Banks and Other Financial Institutions
- _____ (X) Operation of Entity or Business
- _____ (X) Insurance and annuities
- _____ (X) Pensions, Trusts, and Other Beneficial Interests
- _____ (X) Claims and Litigation
- _____ (X) Personal and Family Maintenance

Look at the circumstances
surrounding the creation &
execution of the POA

Did the vulnerable adult
have the ability to
understand the need for
the document?

Whose idea was it to have
the POA?

Has the POA been
notarized or witnessed by
2 witnesses?

Consider interviewing
notary or witnesses ...in
case they have reservations
about V's decision to sign
POA

A family member who is
the suspect - accelerated
inheritance is not a good
defense!

Myth....

- If victim is deceased before we discover the theft, we cannot prosecute

- Wrong!
- Treat such a case as if it were a murder
- There are some situations in which we do not need the victim for a prosecution

Myth

- The crime did not occur in our jurisdiction

Often this response is given when your victim has been “scammed” by an unknown suspect

Three prosecutable scenarios

- Classic case of theft from a competent victim
- Theft from an incompetent victim
- Theft from a marginally competent victim [by undue influence]

SCENARIO # 1

- Victim testifies
- Did not give permission
- Did not owe monies to suspect
- Victim is credible

SCENARIO # 2

- Victim cannot testify
- Medical testimony that victim suffers from dementia/ Alzheimer's/ Parkinson's or some other illness that deprives victim of necessary understanding
- Incapacity was present at time of transaction

SCENARIO # 3

- Is it theft, a loan, or a gift?
- Victim is marginally competent
- Suspect exploited victim's vulnerability
- Victim was unduly influenced or was defrauded

Evidence collection

- Bank, credit card statements
- Bank surveillance tapes
- Prior medical records
- Look for the inappropriate purchases
- Ask questions, questions, questions!!!

Watch for an explosion of
elder financial abuse cases

The fight against senior scams

‘Financial abuse’ is now officially a U.S. public-health concern. Inside the movement to get it under control—and what’s slowing it down.

09/27/2017 05:01 AM EDT

The U.S. Centers for Disease Control and Prevention might be best known for its efforts to combat obesity, or Zika, or the H1N1 flu virus. But last year, it drew new attention to a hazard that doesn’t sound like a disease at all.

The hazard is “senior financial abuse,” meaning the theft of older people’s resources by someone they trust.

Alarmed by the growing cost of the problem and the lack of a clear strategy to combat it, the CDC included in a first-of-its-kind report a definition for what constitutes the financial exploitation of old people. It includes fraud, breach of personal trust, poor investment advice, or improper use of power of attorney.



And it is a global
problem...

Retired police officer, 91, loses life savings in telephone scam

A great-grandfather who held his money in the same account for more than 50 years has been scammed out of his life savings.

Former firefighter and police officer John Thompson lost almost £15,000 after transferring three payments of £4,900 out of his bank account.



Who are the perpetrators?

Usual Suspects:

- Family member
- Caregiver
- Neighbor
- Professional
- Opportunist
- Online predator

Maybe our perception of
what constitutes criminal
financial exploitation is too
narrow?

And the predators out there are relying on the fact that they can get away with it...

Different methods used...
but the same aim... to
steal from the elderly
victim..

Financial exploitation of an
elder that can lead to
homicide..

Other elder thefts that almost ended in death..

Myth.....

- Any case where the elderly victim is involved in a home repair & there is a dispute over money – this is ALWAYS a civil matter.

- Is the “contractor” licensed?
- Are there other victims out there?
- Did he get the money up front?
- What services did he promise?
- What did he deliver?

They continued to work for about a month after that but the work was very sporadic. I called him and complained. I spoke to both him and his wife Marisa. They kept making excuses and then they finally stopped coming and changed their phone numbers. I paid them most of the contract price....around \$26,000.

In addition, they rented a U-Haul to store my belongings in while they were working and now my belongings are missing....about \$11,000 worth. I called the police but they said it was a civil matter.

One of the last contractor
cases I completed...

Investment Frauds...

Bogus charities...

Then I became aware of a
growing problem
involving guardianship
abuse...

A REPORTER AT LARGE OCTOBER 9, 2017 ISSUE

HOW THE ELDERLY LOSE THEIR RIGHTS

Guardians can sell the assets and control the lives of senior citizens without their consent —and reap a profit from it.

By Rachel Aviv



Could there be an April
Parks in your jurisdiction?

Unfortunately there are
similar stories of such
abuse cropping up all
over the USA...

The fallout from
COVID...

So how can we better
protect our older/
vulnerable adults from
becoming the next victim?

Become part of an elder
“task force” community in
your County

Start local...think global..

Know the red flags...

Red flags

- Isolation
- “New friend” or emergence of a relative
- Change in behavior or appearance
- Missed bill payments
- Change in professional advisers

Today there are so many
great resources...



Protecting Seniors:

A Bank Resource Guide for Partnering with Law Enforcement and Adult Protective Services



And the Consumer Financial Protection

Advisory for financial institutions on preventing and responding to elder financial exploitation

And there is also the
FTC...



FEDERAL TRADE COMMISSION Consumer Information

Search

MONEY & CREDIT

HOMES & MORTGAGES

HEALTH & FITNESS

JOBS & MAKING MONEY

PRIVACY, IDENTITY & ONLINE SECURITY

SCAMS

BLOG
VIDEO & ME

Home

▶ [Vea esta página en español](#)



...PassitON



Share this page



Chances are good that someone you know has been scammed. They may not talk about it, but the statistics do.

NCEA

National Center on Elder Abuse

<https://ncea.acl.gov>

E.A.G.L.E project

eagle.usc.edu



[About EAGLE](#) | [Contact](#)

To search, type and hit

[LAW ENFORCEMENT RESOURCES](#) 



They're counting on you.

First Responder Checklist
Survey the scene.

[OPEN CHECKLIST](#)

Evidence Collection Checklist
Build a Case.

[OPEN CHECKLIST](#)



State of Virginia



Guam | Puerto Rico | District of Columbia

Charges

Caregiver Neglect Laws

+

Emotional/Psychological Laws

+

Financial Exploitation Laws

+

Physical Abuse Laws

+

Sexual Abuse/Assault Laws

+

Statutes

Financial exploitation of mentally incapacitated persons; penalty.

+

Abuse and neglect of incapacitated adults; penalty.

+

Assault and battery against a family or household member; penalty.

+

In this section:

Law Enforcement Resources

Recognizing Abusers

Interviewing Older Adults

Working With Others To Build A Case

Documenting Bed Sores

Elder Abuse Photography Tips

Photos Depicting Elder Abuse

Community Resource Referral

Additional National Elder Abuse Resources

EAGLE Training – NW3C

Roll Call Training Videos

EAGLE Newsletter Archive

Menu

Types of Elder Abuse

Emotional Elder Abuse

Financial Elder Abuse

Elder Neglect

Physical Elder Abuse

Sexual Elder Abuse

Death Scene

State Mandated Reporting

Virginia

Va. Code Ann. § 63.2-1606

Who has to report?

Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine; any mental health services provider as defined in § 54.1-2400.1; any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5; any guardian or conservator of an adult; any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity; any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to, companion, chore, homemaker, and personal care workers; and any law-enforcement officer. Any financial institution staff or any other person may report.

When to report?

Matters giving reason to suspect the abuse, neglect, or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect abuse.

How to report?

Reports shall be made to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation occurred or the adult protective services hotline.

Virginia Adult Protective Services Hotline:
888-832-3858

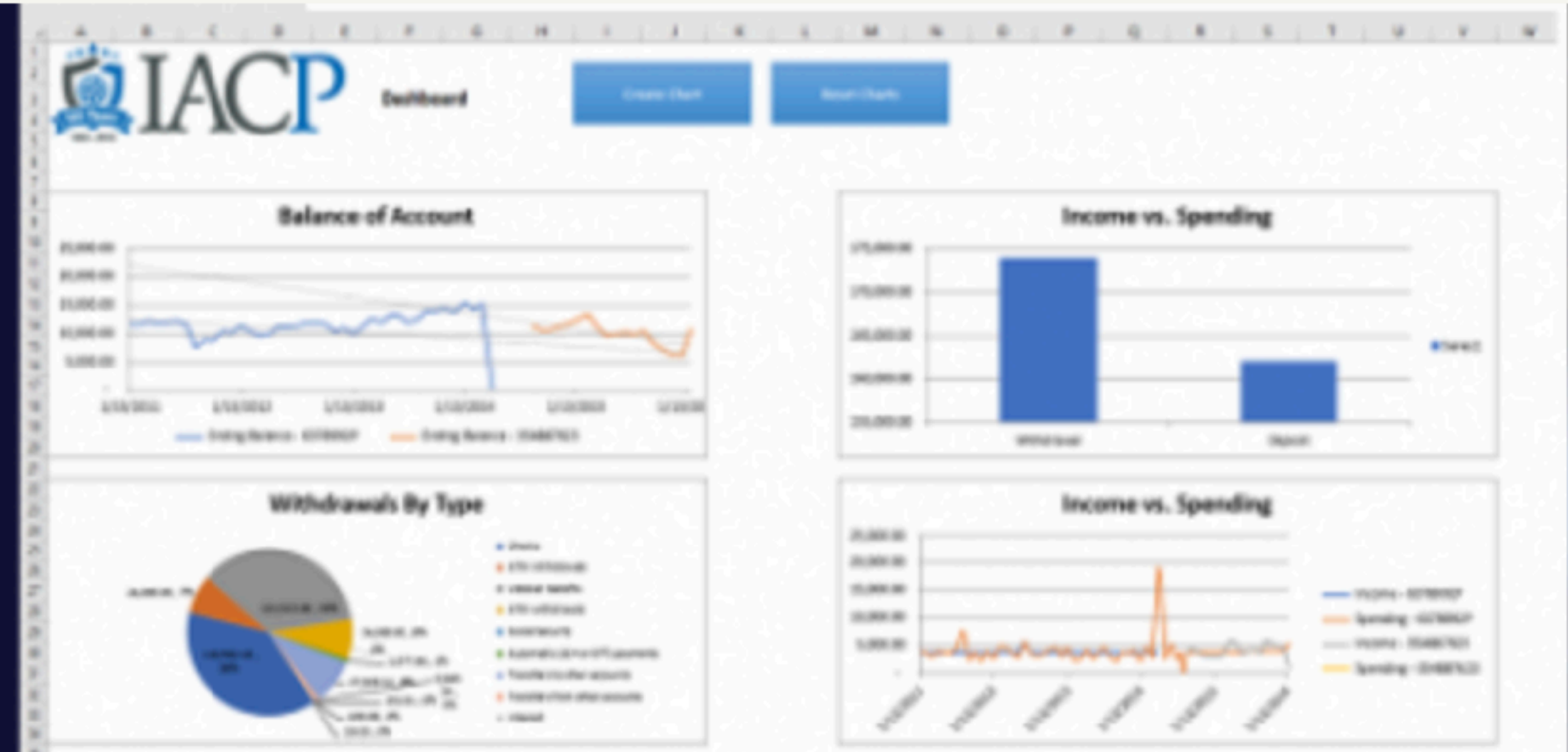
And another great
investigative tool for law
enforcement...

SAFTA.....

Senior Abuse Financial Tracking & Accounting Tool

SAFTA (SENIOR ABUSE FINANCIAL TRACKING AND ACCOUNTING TOOL) TOOLKIT

New tool helps law enforcement investigate suspicious financial patterns



1

2



SAFTA (Senior Abuse Financial Tracking and Accounting Tool) was developed to provide law enforcement with a simplified tool for investigating suspicious financial patterns and prosecuting cases of elder financial exploitation. The toolkit includes the SAFTA tool (an Excel macro-enabled worksheet), a training guide, and subpoena template.

SAFTA Flyer

View the 31-minute **SAFTA Training Webinar**

Elder Justice initiative

DEPARTMENT OF JUSTICE
Elder Justice
INITIATIVE

You're fighting elder abuse
on the front lines.

We've got your back.



In March 2018 we created
our first ever blueprint for
San Diego County



**SAN DIEGO COUNTY ELDER AND DEPENDENT
ABUSE BLUEPRINT 2018**

COORDINATED. CARING. COMMUNITY RESPONSE.



Elder Abuse Emerges From the Shadows of Public Consciousness

by Philip Bulman

Two recent studies shed light on the prevalence and detection of an often overlooked crime.

The image features a dark, almost black background. Two bright, white spotlights are positioned at the top, one on the left and one on the right. Their beams of light converge towards the center, creating a large, bright, oval-shaped pool of light on the floor. The text 'Reaching all victims - that is our goal' is written in a bold, yellow, sans-serif font, centered within the illuminated area. The text is split into two lines: 'Reaching all victims -' on the top line and 'that is our goal' on the bottom line. The overall mood is dramatic and focused, suggesting a search for truth or a mission to reach those in need.

Assess the impact of the crime

- Financial
- Emotional
- Residual

A Message to Seniors:

- We respect and honor you!
- We commit to seeking justice for you
- We prosecute with:
 - Passion
 - Purpose
 - Perseverance

Please feel free to contact me:

- Paul Greenwood
- 442-257-2984
- paul@greenwoodlaw.com

