



BIG RISKS, BIG
REWARDS:
Overcoming
Obstacles to
Elder Abuse
Prosecutions

Judith Kozlowski, JD
Consultant



DEPARTMENT OF JUSTICE
ElderJustice
INITIATIVE

Housekeeping

- Today's webinar will be recorded. You will be provided with the information from the webinar on the EJI website.
- All attendees will enter the webinar in listen-only mode.
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ELDER JUSTICE INITIATIVE

The mission is to support and coordinate the Department of Justice's enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target older adults.

The Initiative does so by—

- Promoting justice for older adults.
- Helping older victims and their families.
- Enhancing state and local efforts through training and resources.
- Supporting research to improve elder abuse policy and practice.



Big Challenges- Big Rewards: Overcoming Obstacles to Elder Abuse Prosecutions

**Amy Mix
Jennifer Mika**

October 22, 2020

Elder Justice Team

Criminal Prosecution

Office of the Attorney General

Civil Enforcement

Public Safety Division

Public Interest Division

Domestic Violence & Special Victims Section

- Criminal Prosecutions
- APS Interventions
- CPOs

Elder Justice Section

- Injunctive Relief
- Equitable Restitution
- Civil Penalties ≤ \$5000
- Revocation of Professional Licenses
- Pre-Suit Subpoena Power

FINANCIAL EXPLOITATION OF VULNERABLE ADULTS AND THE ELDERLY AMENDMENT ACT D.C. CODE § 22-933.01

- Simultaneously made financial exploitation of elders and vulnerable adults a **criminal and civil offense**; express civil enforcement powers to OAG
- Includes financial exploitation by **undue influence**
- Covers ages **65+ and vulnerable adults** (one or more physical or mental limitations that substantially impair the person's ability to independently provide for his or her daily needs or safeguard his or her person, property, or legal interests)

D.C. CODE § 22-933.01

(c) For the purposes of this section, the term "undue influence" means mental, emotional, or physical coercion that overcomes the free will or judgment of a vulnerable adult or elderly person and causes the vulnerable adult or elderly person to act in a manner that is inconsistent with his or her financial, emotional, mental, or physical well-being.

- **Maryland Woman Opens Credit Card in Elderly Father's Name, Shopping Spree Totals More Than \$4,000.** D.C. filed a lawsuit against a Maryland resident alleging she financially exploited her 88-year-old father, a District senior, by opening a credit card account in his name without his permission and making \$4,405.70 in unauthorized charges on the card. The defendant allegedly made at least 59 purchases—ranging from \$619.71 total at Macy's, \$451.67 total at Baltimore Gas and Electric, and \$426.65 total at Coach, among others.
- **D.C. Woman Marries Senior with Dementia, Depletes Half of His Savings.** OAG filed suit against a 27-year-old District resident who allegedly entered into a relationship with and then married a 73-year-old suffering from dementia in order to exploit him. The defendant purportedly used this relationship to secure a Power of Attorney, granting her control over the victim's finances. She spent more over \$200,000 of the victim's savings on digital purchases via Apple, Amazon, and Hulu, vacations in Montreal, Hawaii, Miami, and the Virgin Islands, and other expenses.
- **D.C. gets TRO to Stop Undue Influence.** D.C. OAG obtained a TRO against defendant whom the District alleges has used undue influence to exploit a physically disabled 67-year old by using nearly all of his \$2k retirement benefits for herself, leaving her vulnerable victim without funds for safe housing, food and medical treatments. Defendant takes elder to the bank the day his benefits are deposited and uses his cash withdrawals for her own benefit, including shopping trips and vacations.

Challenges

- finding viable cases
- working with senior victims
- judicial education
- referrals

For every 1 case of
financial exploitation
that gets reported. . .

1

43

...another 43
cases never come
to light.

Finding Civil Government and Community Partners

Government Partners

- Office of the Attorney General (usually in consumer protection)
- Adult Protective Services
- Long-Term Care Ombudsman
- Medicaid Fraud Control Unit
- Area Agency on Aging (eldercare.gov)

Community Partners

- Legal Aid: contact your local Area Agency on Aging or Legal Services Corporation (LSC) funded legal aid offices
- Victim Advocates
- Senior Day Programs / Meal Centers

PROSECUTORS EJI WEBINAR OCTOBER 22, 2020



Madeline Singas,
District Attorney



BIG CHALLENGES-BIG REWARDS: ***Overcoming Obstacles to Elder Abuse Prosecutions***

NASSAU COUNTY DISTRICT ATTORNEY'S OFFICE

ELDER ABUSE UNIT

ARLENE M. MARKARIAN, CHIEF

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AGEISM & STEREOTYPES

- All older people have bad memories or have Alzheimer's Disease
- Older people bruise easily
- Older people have poor hygiene
- Older people always trip or fall
- All older people...

We all make presumptions about people...Prosecutors, judges, law enforcement, medical professionals—everyone. Ageism prevents the identification and investigation of elder abuse!

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FORGETFULNESS ≠ ALZHEIMER'S

- *Don't take a claim that the older adult has Alzheimer's Disease or other dementia at face value. Many times people use that term when speaking about an older person who is "forgetful" ... or as an attempt to get you not to speak with or believe the victim.*
- *Sometimes seniors believe they have Alzheimer's b/c of their own forgetfulness or b/c family or abusers have told them that.*
- *Was there even a diagnosis? When was the last time victim went to the doctor? Ask!*

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PROFILE OF AN ABUSER

- Adult child or grandchild [or other family member]
- Lives with senior
- Substance abuser [alcohol &/or drugs]
- Some degree of mental illness
- Unemployed
- Wants/gets/takes money from senior

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A FEW EXAMPLES OF EVIDENCE THAT CAN BE QUITE HELPFUL...

PHOTOGRAPHS:

- of the victim's injuries
- evidence of neglect
- their home / property damage/evidence of substance abuse

SECURITY CAMERAS?? *Request copy or preservation asap!*

- Inside or outside the home
- Someone else's camera, like a neighbor (Ring??)
- Not just to show assault. May show caregiver leaving victim home alone for long periods of time? (Neglect) Or may show perp fleeing location (if claiming alibi)

Document all suspected abuser's claims:

- she fell; he bruises easily
- he's got dementia
- I am his Power or Attorney; I am her Guardian
- Check hospital discharge plan: did abuser claim to be caregiver?

Don't forget about social media...can be a treasure trove!!

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COLLABORATION IS KEY...*WE CAN'T DO IT ALONE*

- Law enforcement [PD, DA, AG...]
- Senior service agencies [APS, OFA, Veterans]
- Community Based Organizations
- Senior centers
- Doctors and other medical professionals
- Mental health professionals
- Elder law attorneys
- SPCA
- Houses of Worship

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SOME OF MY BIGGEST HURDLES...

- Judges who won't issue stay-away OPs at the arraignment b/c they don't understand that even if mom or dad want defendant to come back home, sending him home just after he was arrested is a bad idea and unsafe at that time.
- Proving cases without the victim's testimony b/c thorough investigation wasn't done and we lost evidence—like security videos or witnesses at the scene. We should expect that, in every case, the victim won't testify against their abuser.
- A real lack of training in neglect—I get so few cases—medical professionals aren't calling on these cases.
- No mandated reporting of elder abuse in NYS

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MY WISHLIST!

- Fixing a broken mental health system.
- Resources to create more residential programs and therapeutic housing for substance abusers and offenders with mental health issues.
- Hospitals, nursing homes, assisted living facilities being mandated to have security cameras in all common areas and that the recordings must be saved for a certain amount of time (6 months?); with an option for families or residents to have a camera in the room.
- Mandated reporting with supports and resources provided to handle all the new cases that would be coming in.

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COLLABORATIONS ARE KEY TO SUCCESS

Federal/Local Partnerships

- Information sharing builds stronger cases
- Different standards/elements → more opportunities to obtain justice
- Enhance everyone's capacity

Interagency Collaborations

- Think creatively about who would be interested in Elder Justice
- Different resources → wholistic approach to case outcomes
- More referrals, more potential for early intervention
- SSA, OPM, VA, USPS, MFCU, DDS, DBH, DOH, MPD, USCP

Jennifer Mika

Assistant Attorney General
Domestic Violence and Special Victims Unit
Office of the Attorney General
District of Columbia

EXAMPLES OF COLLABORATIVE SUCCESS

- Creation of Prosecutor position and Elder Justice Section
- Updates to laws and regulations
- Increased referrals from federal and local partners
- Connecting elder victims with services
- Coordinated response to known bad actors
- Overall increase in successful prosecutions

FOR IMMEDIATE RELEASE

Thursday, February 13, 2020

District Woman Found Guilty of Financial Exploitation of an Elderly Vulnerable Adult

WASHINGTON - Moureen Masika, 31, was found guilty on Monday, February 10, 2020, of one count of Financial Exploitation of an Elderly Person or Vulnerable Adult and three counts of Second-Degree Theft after a jury trial. The incidents were part of a fraud scheme perpetrated by Masika, a home health aide, on her patient, an 88-year-old man with dementia, announced U.S. Attorney Timothy J. Shea. This trial is the first involving the charge of Financial Exploitation of an Elderly Person or Vulnerable Adult in D.C. since the crime was passed into law in 2016. Sentencing is scheduled for March 9, 2020.

FOR IMMEDIATE RELEASE

Tuesday, February 25, 2020

Two Former SunTrust Bank Employees Plead Guilty to Financial Exploitation of an Elderly Person

WASHINGTON – Rashad Liverpool, 27, and Robert Tillery, 44, pleaded guilty today of one count of Financial Exploitation of an Elderly Person or Vulnerable Adult. The two former SunTrust Bank employees defrauded a 72-year old widow with diminished capacity of over \$80,000, announced U.S. Attorney Timothy J. Shea. Both defendants agreed to pay restitution as part of their plea and will be sentenced on April 28, 2020.

WISH LIST ITEMS

- More investigatory resources – clinicians, financial analysts
- Broader societal awareness of elder justice issues
- Wider understanding of undue influence
- More prevention tools

WWW.ELDERJUSTICE.GOV

- General information about Elder Abuse
- Specific information about particular types of Elder Abuse
- Specific Section on Financial Exploitation
- Research Resources useful for court filings, sentencing memos, and general knowledge
- Ready to use resources for Community Presentations
- Prosecutor Resources: HELP US BUILD THE LIBRARY of PLEADINGS
 - Send your pleadings to: elder.justice@usdoj.gov with SUBJECT LINE: EJI Materials

CONTACT THE ELDER JUSTICE INITIATIVE

For case consultations, referrals or to collaborate, contact:

Judith Kozlowski

at

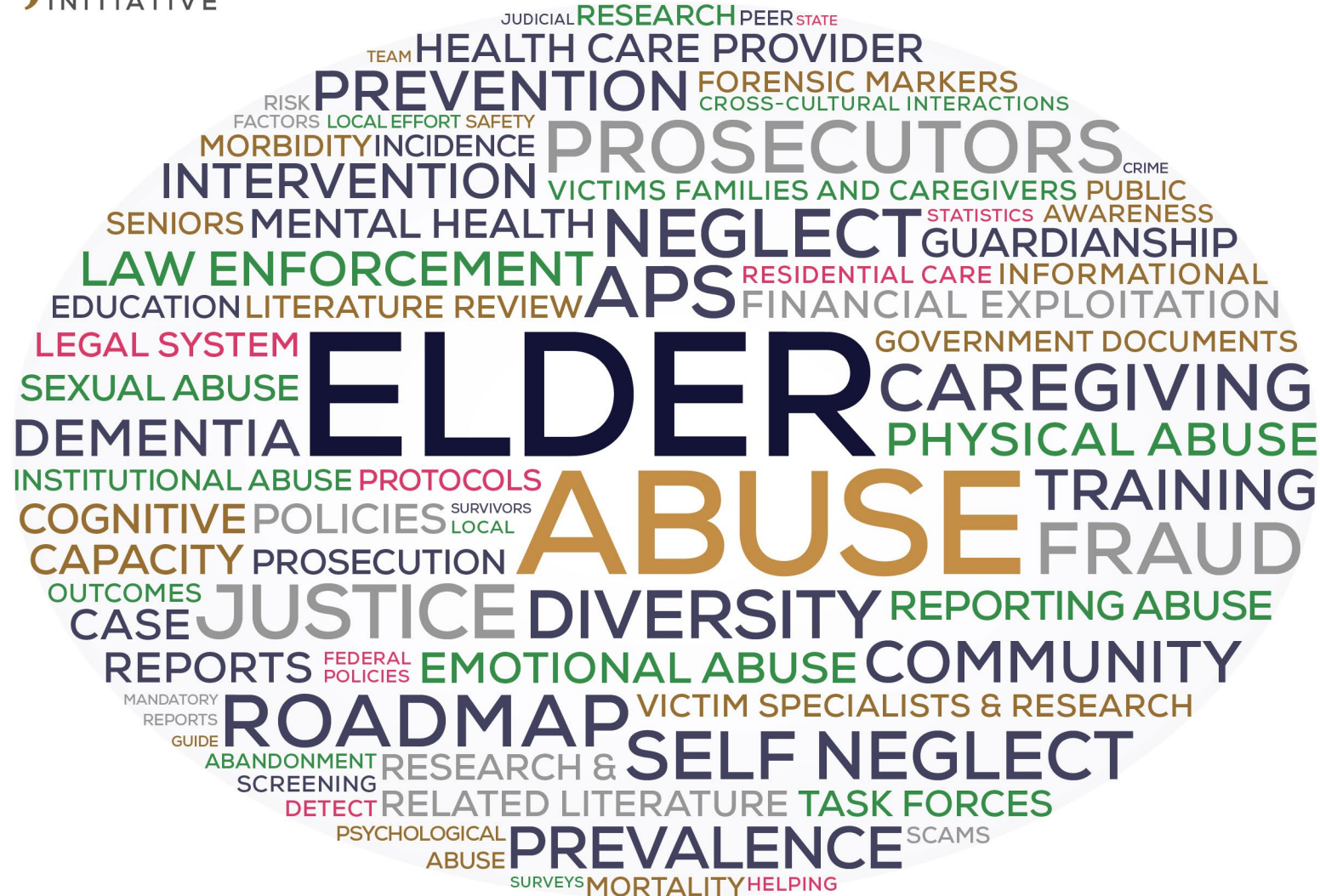
Judith.F.Kozlowski@usdoj.gov

TODAY'S SPEAKERS

- Amy Mix
 - Chief, Elder Justice Section
 - Office of the Attorney General
 - District of Columbia
 - Amy.Mix@dc.gov

- Arlene Markanian
 - Chief, Elder Abuse Unit
 - District Attorney's Office,
 - Nassau County, New York
 - Arelene.Markanian@nassauda.org

- Jennifer Mika
 - Assistant Attorney General
 - Domestic Violence and Special Victims Unit
 - Office of the Attorney General
 - District of Columbia
 - JenniferC.Mika@dc.gov



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THANK YOU

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