

**NATIONAL GUIDELINES
TO IMPLEMENT THE
*2013 FEDERAL INTERAGENCY
GUIDANCE ON PRIVACY LAWS AND
REPORTING FINANCIAL ABUSE OF
OLDER ADULTS***

DEVELOPED BY THE PHILADELPHIA CORPORATION FOR AGING AND
THE NATIONAL ADULT PROTECTIVE SERVICES ASSOCIATION

FUNDS WERE GENEROUSLY PROVIDED BY COMMUNITY FUNDS INC.:
THE HUGUETTE CLARK FAMILY FUND FOR PROTECTION OF ELDER

Updated January 2016



National Guidelines to Implement the 2013 Federal Interagency Guidance on Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults

Background

Elder financial exploitation is a substantial and complex social, justice and health problem. According to recent research:

- 10%, or about 5 million older persons, are abused, neglected and/or exploited each year, many of them in multiple ways.¹
- Abused seniors are three times more likely to die prematurely.²
- Victims and family lose lifetime savings, often almost overnight, and may suffer physical and other types of abuse related to exploitation.
- Financial institutions lose significant amounts in deposits, money which is seldom recovered.
- Almost one in ten financial abuse victims may have to turn to Medicaid as a direct result of their own monies being stolen.³
- Only one in 44 elder financial exploitation case is ever reported.⁴
- Cognitive impairment reduces financial capacity, increasing the risk of financial exploitation.

Financial exploitation causes economic losses for Medicare, Medicaid, the financial services industry, caregivers, and families as well as older people themselves; and can lead to impoverishment and homelessness. As older persons are the fastest growing population group, elder abuse is expected to continue to increase in the coming years.⁵

¹ Acierno, R. e. (2010). Prevalence and Correlates of Emotional, Physical, Sexual and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study. *American Journal of Public Health*, 100(2): 292-297.

² Lachs, M.S., Williams, C.S., O'Brien, S., Pillemer, K.A. & Carlson, M.E. (1998). The mortality of elder mistreatment. *Journal of the American Medical Association*, 280 (5), 428-432.

³ Gunther, J., The Utah Cost of Financial Exploitation. Utah Division of Aging and Adult Services. March, 2011.

⁴ Lifespan of Greater Rochester, Weill Cornell Medical Center of Cornell University, New York City Department for the Aging. (2011). Under the Radar: New York State Elder Abuse Prevalence Study, Final Report. Lifespan of Greater Rochester, Inc.

⁵ Vincent, G. &. (2010). The Next Four Decades: The Older Population in the United States: 2010 to 2050. Washington DC: US Census Bureau.

Adult Protective Services

Adult Protective Services, or APS, is statutorily authorized under state and tribal law to receive and investigate reports of elder abuse, including financial exploitation, and to protect the victims. In almost all states, APS serves all adults with significant disabilities age 18 and above; in a few states, any older person may be served based on advanced age alone (i.e., it is not necessary for a person over age 60 or 65 to have a disability); and in a few states APS serves older persons only.

APS' responsibilities include investigating the alleged abuse, determining if it is occurring, and working with the client to stop the abuse and to improve the victim's safety and well-being. APS conducts "authorized civil investigations" as mentioned in the privacy law exceptions in the Gramm-Leach-Bliley Act.

In order to carry out these responsibilities, APS must have access to current, accurate information about the client's financial situation in order to adequately investigate the alleged financial exploitation and to mitigate the client's future risk.

Twelve states specifically mandate financial institutions to report suspected elder abuse to APS, and another fourteen require "all persons" to report, so bankers and other financial professionals must report in a total of twenty-six states. They may voluntarily report with immunity for good faith in all states.

Financial Institutions

Financial institutions play an important role in preventing and intervening to stop financial exploitation. Banks and investment advisors are in a position to spot suspicious activities in an older person's account; in over half the states financial institutions are required to report suspected abuse; and financial institutions have a duty and a desire to protect their customers' assets. Partnering with APS creates a significant opportunity to prevent and reduce elder financial abuse while also protecting their customers' assets and funds on deposit.

Goals of the Guidelines

1. Clarify that a report of elder financial exploitation to APS by a financial institution necessitates that the institution also provide requested records promptly and completely; i.e. a report is incomplete without the needed records.
2. Promote standardization of practice by both financial institutions and APS in responding to, and cooperating on, financial exploitation cases.
3. Promote standardization of APS requests for client records from financial institutions through the creation and dissemination of a standard form to be used nationwide.
4. Promote knowledge of the federal guidance on reporting elder abuse, these guidelines and the standard form to as many financial institutions as possible throughout the country.
5. Encourage the submission of SARS on elder abuse cases.
6. Facilitate productive working relationships between APS and financial institutions.

Guidelines for APS

The state or local APS Program recognizes:

1. *The responsibility to carry out thorough and timely investigations of reported elder abuse, neglect and exploitation and to intervene to protect the victims and their assets;*
2. The benefits of using the standardized request for records form in order to promote consistency of practice and to increase financial institutions' understanding of the role and authority of APS;
3. The need to be courteous and respectful of the financial institutions' time constraints;
4. The desirability of forming positive working relationships with financial institutions' personnel and educating the financial services industry about APS and its roles and responsibilities.

Guidelines for Financial Institutions

The financial institution recognizes:

1. The serious problem of elder financial exploitation;
2. The bank's responsibility and authority to report suspected elder abuse, neglect and exploitation to APS;
3. The need to provide as much detailed information as possible in the report, including informing APS of the bank branch, specific teller, etc. who raised the concerns;
4. APS' responsibility and authority to investigate reports of elder abuse, neglect and exploitation;
5. The GLBA exceptions which allow the sharing of records pursuant to an authorized civil investigation by a government authority and to prevent fraud;
6. *The institution's responsibility to cooperate with APS in the investigation by providing the alleged victim's account records, as requested, in a timely and complete manner;*
7. The need to be courteous and respectful of APS' time constraints;
8. The desirability of forming positive working relationships with APS personnel and appointing a liaison person to work with APS whenever feasible;