NYCFE LUNCH AND LEARN

THE CHANGING LANDSCAPE OF ELDER FRAUD

November 17, 2022

12:00 PM - 1:15 PM EST

1.5 CPES
VIRTUAL
NO FEE TO REGISTER



Marize Helmy

Partner at The Manna Helmy Law Group



Deborah Holt-Knight

Deputy Commissioner of NYC Adult Protective Services



Karen Webber

New York City Elder Abuse Center
Forensic Accountant Consultant

INTERNATIONAL FRAUD AWARENESS WEEK
November 13-19, 2022

REGISTER: WWW.NYCFE.ORG

Financial Exploitation

- ACL/NCEA: The illegal or improper use of an elder's funds, property, or assets.
  - https://ncea.acl.gov/Suspect-Abuse/Abuse-Types.aspx#financial
- New York: The improper use of an adult's funds, property, or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers, or denial of access to assets.
  - **NYS Social Services Law §473(6)(g)**
- New Jersey: The act or process of illegally or improperly using a person or his resources for another person's profit or advantage.
  - **N.J. Stat. Ann. 52:27D-407**

By the Numbers

- **New York**
  - 1 in 23 cases of elder abuse (all types) are reported to authorities.
  - Only 1 in 44 cases of financial exploitation are reported.
- **US**
  - Victims in the US lose $37 billion in life savings every year.
  - Authorities may spend $3.4+ billion on intervention, not including ongoing assistance.
- **Global**
  - Financial exploitation is the most prevalent form of elder abuse in Ireland.
  - 6.8% of Europe's older adult population is likely to be exploited.
  - Global population of older adults will reach 2.1B by 2050.

Impact

- Victims of elder abuse are three times more likely to die prematurely than their peers who have not been abused.
  - **Lachs, M., *Journal of the American Medical Association*, 1998**

- Of all forms of elder abuse, financial exploitation victims have the lowest 5-year survival rates, tied with caregiver neglect.
  - **Burnett, J., *Journal of Elder Abuse and Neglect*, 2016**

Types of Financial Exploitation

By Strangers

- Lottery/sweepstakes scams
- Social media/romance scams
- Phishing/email compromise
- Investment fraud
- Identity theft

By Trusted Others

- Stealing cash, valuables
- Improper access to assets/funds via financial instruments
- Forgery
- Excessive fees
- Coerced property transfers
- Identity theft

Where to Report

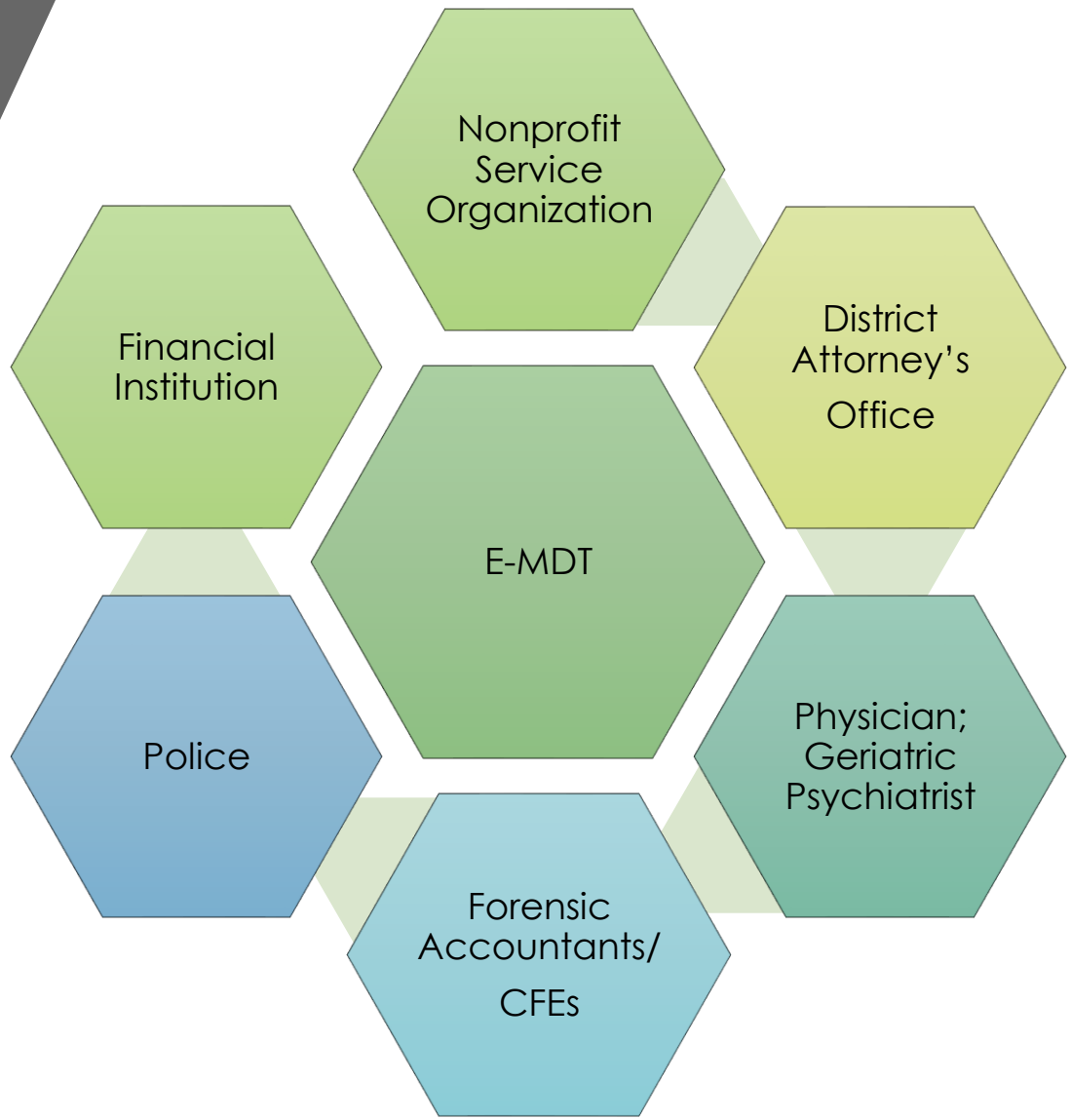
New York

- Statewide APS Dispatcher
  - 1-844-697-3505
- Local APS agency
  - https://ocfs.ny.gov/directories/localdss.php
- Local law enforcement
- Attorney General

New Jersey

- Local APS Agency
  - https://www.state.nj.us/humanservices/doas/home/adultpsp.html
- Local law enforcement
- Attorney General

Enhanced Multidisciplinary Teams (E-MDT)



Relevant Regulations

Reporting & Investigation

- **Gramm-Leach-Bliley Act 15 U.S.C. §6802**
  - Allows financial institutions to disclose information to APS and law enforcement.
- **NJ Safeguarding Against Financial Exploitation (SAFE) Act**
  - https://www.njconsumeraffairs.gov/bos/Pages/SAFE.aspx
  - Mandates reporting by financial professionals to APS
- **N.J.S.A. 52:27D-410(e): Access for reporting abuse, neglect, exploitation; evaluation**
  - Allows financial institutions to disclose information to APS.

Intervention

- **FINRA Rule 2165**
  - Authorizes agents, advisers, brokers & dealers to halt transactions ad/or freeze accounts
- **FINRA Rule 4512(a)(1)(F)**
  - Requires agents, advisers, brokers & dealers to make reasonable effort to document trusted contact for each client
  - Permits agents, advisers, brokers & dealers to disclose account information, including suspected financial exploitation, to trusted contact
- **NJ SAFE Act**
  - Authorizes agents, advisers, brokers & dealers to halt transactions ad/or freeze accounts

Scam Resources

For Victims

- NYC Consumer & Worker Protection
  - https://www.nyc.gov/site/dca/consumers/scams.page
- NJ Consumer Affairs
  - https://www.njconsumeraffairs.gov/Fraud
- Consumer Financial Protection Bureau
  - https://www.consumerfinance.gov/consumer-tools/fraud/

For Advocates

- Local Better Business Bureau:
  - https://www.bbb.org/scamtracker
- CFPB Print Resources
  - Money Smart for Older Americans
  - Managing Someone Else's Money
  - Meal placemats
- Federal Trade Commission's 10 Tips
  - https://www.bulkorder.ftc.gov/system/files/publications/776a_10_things-you-can-do-to-avoid-fraud.pdf

Elements of Financial Exploitation

- We are trying to show:
  - Assets were taken
  - Authorization for the taking was unlikely
  - Spending was influenced by or for the benefit of the suspect
  - Spending harmed the victim
  - Suspect was aware of harm being caused



Contact Info

Deborah Holt-Knight

Deputy Commissioner NYC APS

- holt-knightd@hra.nyc.gov
- 929-252-6100

Marize Helmy

Attorney, The Manna Helmy Law Group

- mhelmyesq@mannalaw.com
- 201-277-9438

Karen Webber

Forensic Accountant, Webber CPA, PLLC

- kwebber@webbercpa.com
- (585) 454-9387