

Working Better Together



Coalition of Wisconsin Aging and Health Groups

Financial Empowerment ■ *Personal Advocacy* ■ *Victim Rights*

A photograph of a classical building facade featuring a prominent statue of Lady Justice. The statue is a female figure, blindfolded and holding a pair of scales, symbolizing justice. To her left, another figure is partially visible. The building's architecture includes ornate carvings and a pediment. The sky is blue with some clouds.

ACKNOWLEDGMENT

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Mission Statement

CWAG is dedicated to improving the quality of life of the elderly through legislative advocacy, public education, and free legal services statewide to victims at least 60 years of age who have been financially exploited, abused by a fiduciary, scammed, or had their identity stolen.

We can disrupt the predators financially exploiting our most vulnerable community members by working better to leverage the expertise of each agency so that we can focus on what we each do best. Maximizing the use of multiple disciplines allows us to serve our community more effectively and efficiently. This can result in not only better outcomes for our victims but also in a greater number of victims being served.



Who do we serve and how

Victims of financial exploitation/abuse 60 years of age and older

Statewide

No cost

No income or asset restrictions

Confidential

Not a mandatory reporter



CWAG does not discriminate based on age, race, ethnicity, national origin, religion, gender, sexual orientation, disability, medical history, or other non-merit characteristics.



Wis. Stat. 46.90(1)(ed)

“Financial exploitation” means any of the following: obtaining an individual’s money or property by deceiving or enticing the individual, or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent.

FORMS OF FINANCIAL EXPLOITATION



Exploitation by an agent under a power of attorney or person in another type of fiduciary relationship



Theft of money or property, often by a family member, caregiver or in-home helper



Scams



Identity Theft



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Financial Exploitation vs. Undue Influence vs. Fraud

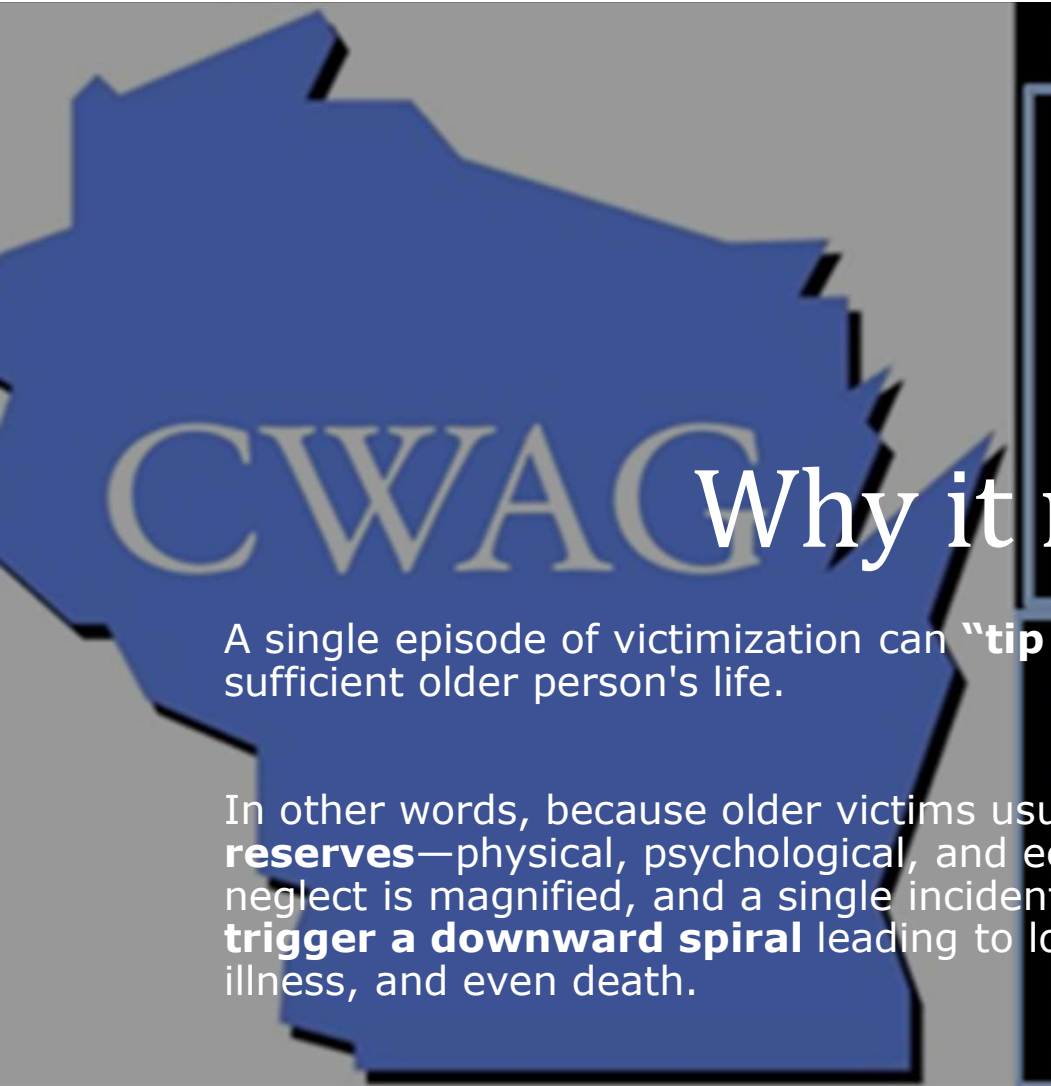
FINANCIAL EXPLOITATION is the **unauthorized** use or taking of the money or property of a **vulnerable** adult for the benefit of another

UNDUE INFLUENCE is the **exertion of influence**, over a **vulnerable** adult, with the intent to override or change the choice or free will of the person, for the benefit of another person

FRAUD is a theft involving an **intentional lie or misstatement** of the fact, with the intent that the person relies on it to the benefit of another person

Undue Influence Wheel Common Tactics

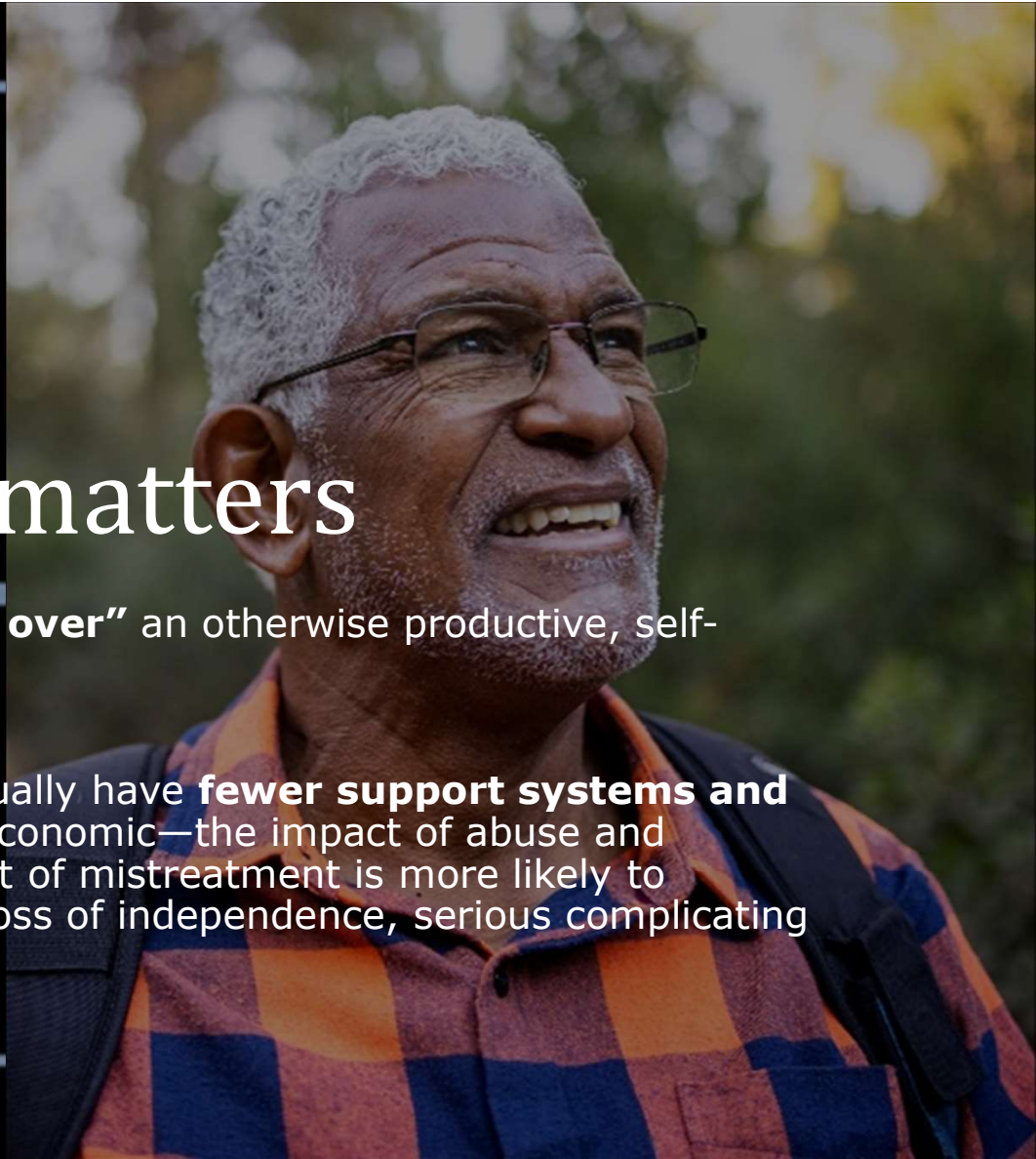




Why it matters

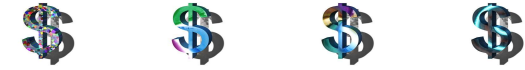
A single episode of victimization can “**tip over**” an otherwise productive, self-sufficient older person's life.

In other words, because older victims usually have **fewer support systems and reserves**—physical, psychological, and economic—the impact of abuse and neglect is magnified, and a single incident of mistreatment is more likely to **trigger a downward spiral** leading to loss of independence, serious complicating illness, and even death.





Financial Harms



Damage to credit

Loss of personal funds, property, housing, and other valued assets

Lack time and/or employment to rebuild assets

Increased likelihood of going on Medicaid as a direct result of abuse

New reliance on others for financial support making more vulnerable to abuse





Psychological Consequences

Depression

Anxiety

Distress

Fear of retaliation

Fear of losing independence and living in a nursing home

Loneliness

Loss of self-esteem and dignity due to feelings of shame and embarrassment

Sense of hopelessness, powerlessness and self-blame

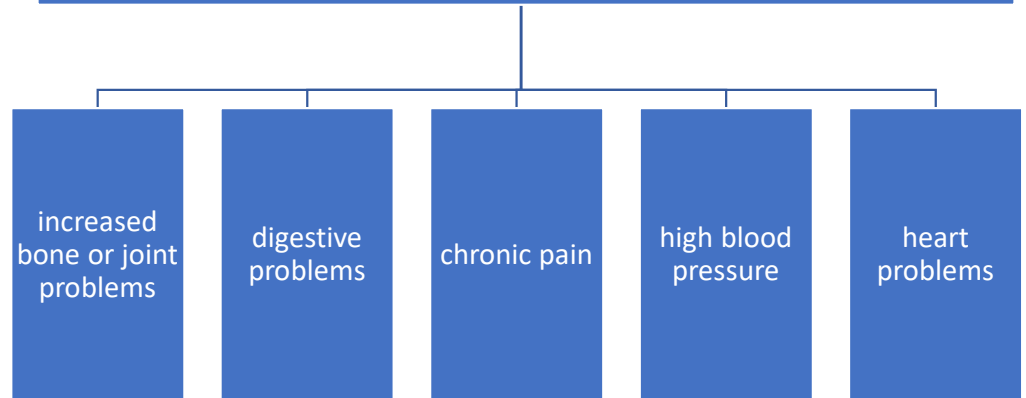
Difficulties in decision making (self-doubt, not trust own judgment)



Physical Harms

(Harms not as a result of physical or sexual abuse)

Emotional effects, including stress and trauma along with preexisting health problems, can result in an overall decline in physical health including:



Quality of life harms

Loss of confidence and of trust

Second guessing and self-doubt

Loss of independence or greater reliance on others

Revictimization

Twice as likely to be hospitalized and four times as likely to go into nursing homes

More chronic diseases and access the health care system at higher rates



Barriers to Seeking Help: Obstacles and Fears

Loss of independence

Reliance on others

Physical limitations

Cognitive impairments

Loss of loved ones

Loss of identity/sense of purpose

Loss of financial security



Abuse in Later Life Power & Control Wheel



In 2006, NCALL adapted the Power and Control Wheel, developed by the Domestic Abuse Intervention Project, Duluth, MN. Resource updated, April 2011.



Social Determinants

Effects of social determinants accumulate and intermingle as we age affecting how we respond to trauma and overcome adversity.

Poverty

Discrimination

Social exclusion

Past Trauma

Where We Work

Where We Live





GENERAL CRIME IMPACT WHEEL

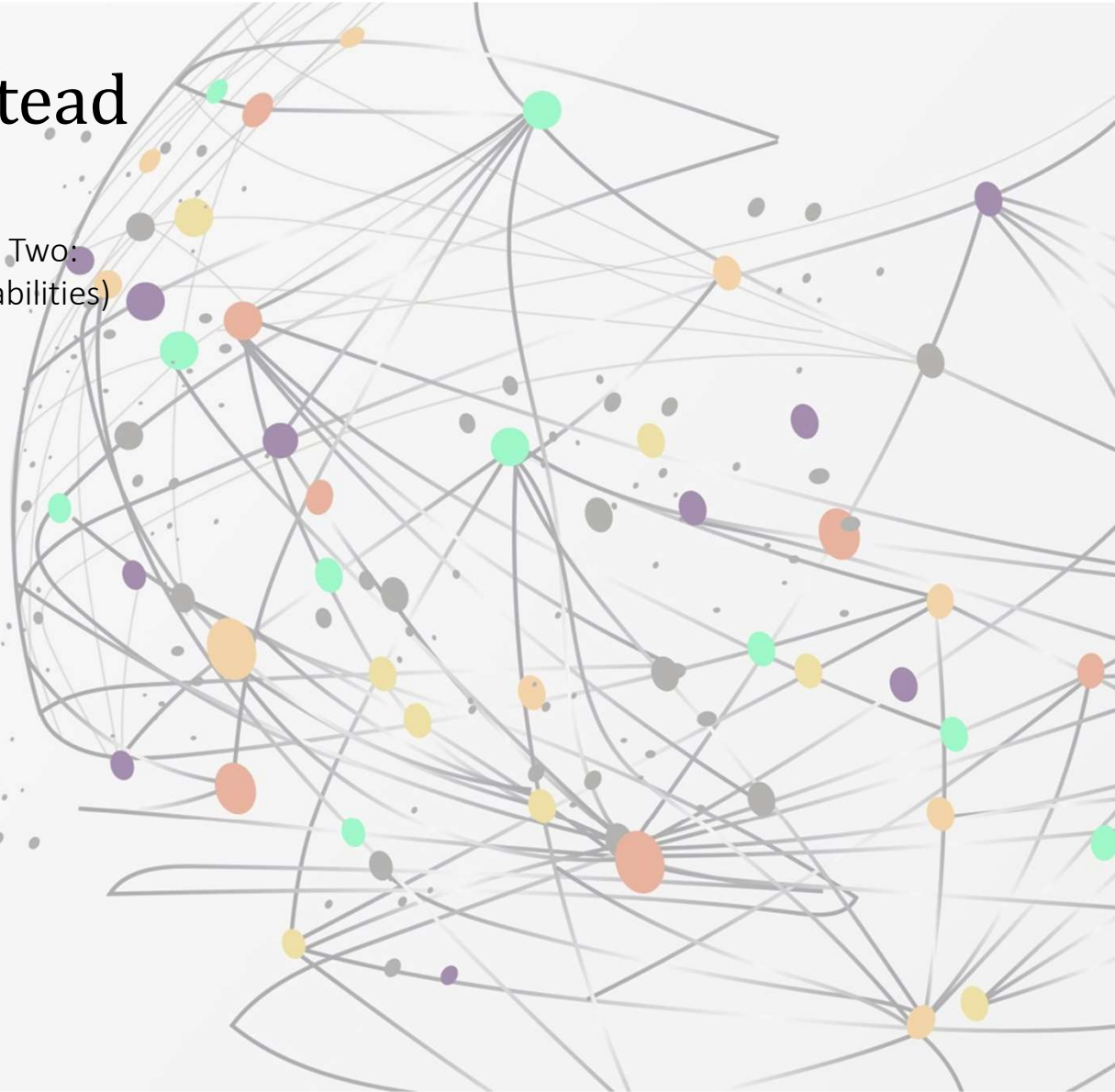
- Societal context
- Core influencing factors
- Cultural context
- Individual impact

Inspired by "Impact Wheel" by Laura Williams, from MNCASA's *Sexual Violence in Minnesota: A Resource Manual for Advocates*, originally published in 2007, adapted by MN Alliance on Crime, 2018

Decisional Capability instead of Capacity

(NCLER: Closing the Justice Gap for Older Adults-Part Two: Representing Clients with a Range of Decisional Capabilities)

Capacity implies a maximum or minimum level that is frozen in time: capacity or incapacity without any context



Decisional Capability is the quality of being capable and able to do something

Implies potential that can be developed and improved under the right conditions with the right supports



Context matter.
The ability to do something specific or to decide regarding what exactly matters.

- to manage money,
- make a medical decision
- choose a visitor
- execute POA or will
- Smoke
- sell property, etc.

Not an all or nothing proposition

Can vary from day to day or even hour to hour

Can be affected by illness, medications, stress, sleep deprivation, dehydration substance abuse, etc.



What is one of the most common
types of Financial Exploitation?

Fiduciary Abuse

Fiduciaries



Fiduciary: person named to manage money or property for another



Legal responsibilities

- Act in best interest of the principal
- Manage money and property properly
- Keep money and property separate
- Keep good records



Types of Fiduciaries

- Trustees
- Representative Payees or VA Fiduciaries
- Guardians or Conservators
- Agents of Financial Power of Attorney

Breach of Fiduciary Duty|Abuse

Self-dealing: Agent might spend the individual's money on items for his or her own use rather than for the individual's needs

Exceeding scope of intended authority: Agent might do things that the document doesn't allow, such as making gifts when that power hasn't been granted

Deviating from the principal's expectations: Agent might have the authority but undermine the principal's plans, e.g. make gifts or transfers that undermine the estate plan

Representative Payee | VA Fiduciary

Mechanism to allow
someone to receive
federal benefits

Can simplify the
handling of finances

Be careful who you
suggest

ability

not proximity

Educate
representative
payees and VA
fiduciaries regarding:

Duties and responsibilities

Accounting

Separate accounts

Representative
Payees,
VA Fiduciaries
and other
Government
Benefit Money
Managers

Misusing authority over a beneficiary's
money, **rep payee abuse**:



Failing to spend
money on
necessities



Exceed the
authority given



Self-dealing



Fail to follow rules
about charging the
beneficiary for
services



Co-mingling funds



Keeping money
although no longer
serving as a rep
payee

What is a Power of Attorney For Finances?

Legal document used by an individual to allow someone else to manage money and property on their behalf

Tool for planning for future **incapacity** because a **trusted** person (“agent”) can stand in for an individual (“principal”) who can no longer make/communicate financial decisions

“**Durable**” Power of Attorney- continues in effect even after the principal loses the ability to make financial decisions

Document lists things agent **can do**; can be tailored to the needs of the principal

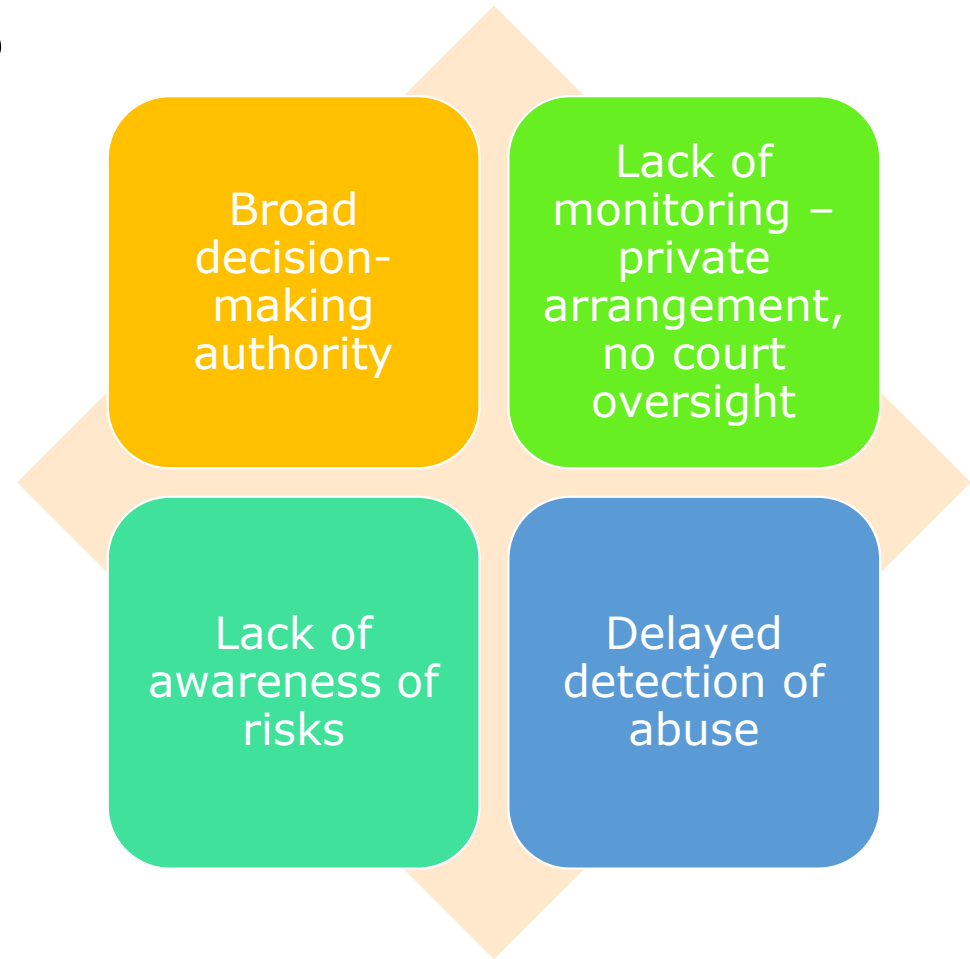
Is easy to **amend** unlike a guardianship. It can be revised in an office and reviewed annually or periodically.



“A license to steal”



Why is it so easy to abuse?



Choosing an agent: Questions to Ask

- Do I trust this person?
- Do I feel comfortable with them?
- Will they carry out my wishes the way I want them to?
- Are they willing and able to take on this responsibility?
- Will they make decisions in my best interest?
- Will they manage my money and property carefully?
- Will they be able to keep my money separate from their own?
- Will they keep good records?





Execute a durable power of attorney

Review estate planning documents and agents named periodically – not once a lifetime

Require initial inventory and annual accounting to a third party

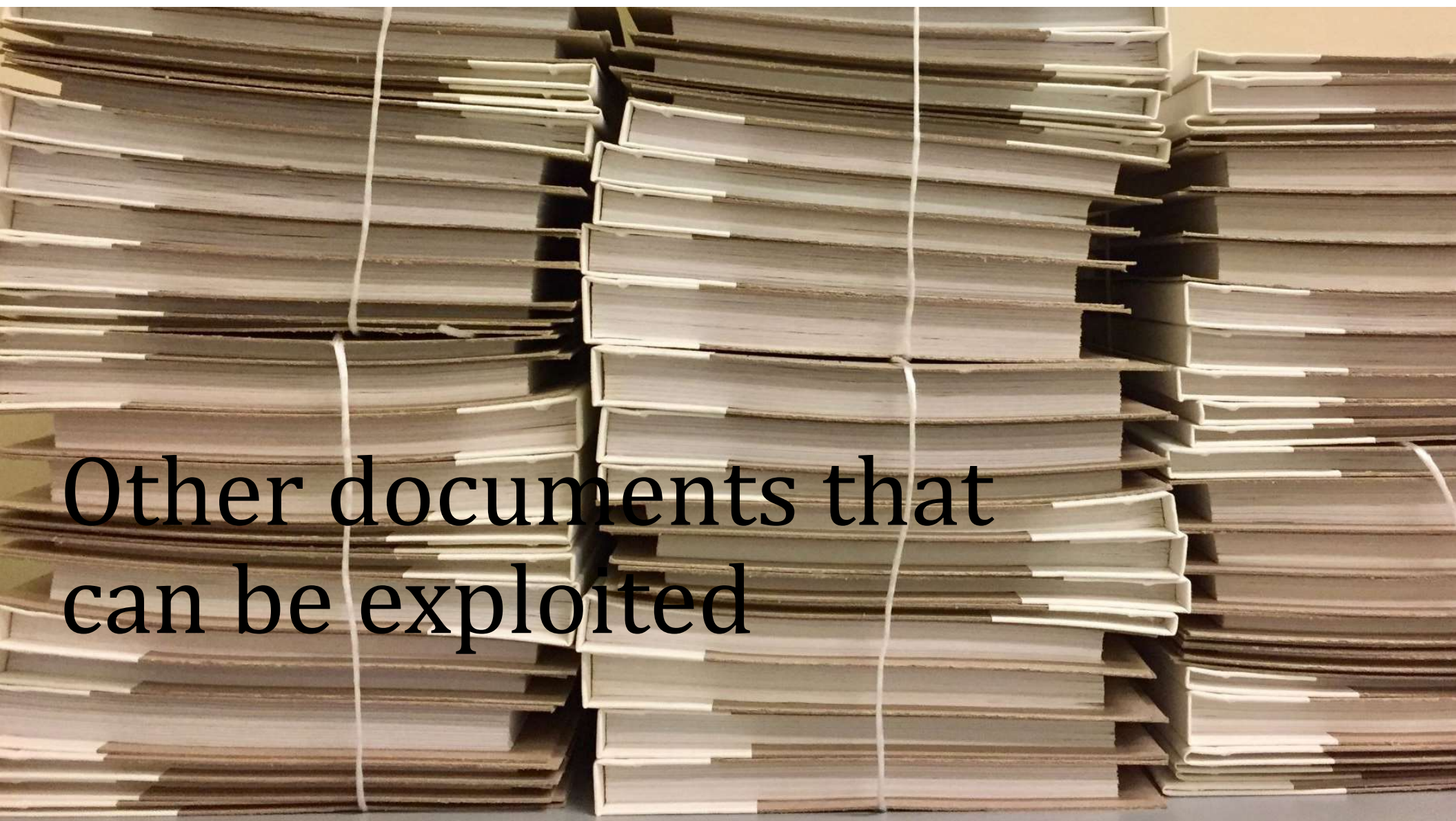
Requiring 2nd signature for large transactions

Granting a power to revoke to a trusted 3rd party

Limit power to make gifts (if at all) and power to change beneficiary designations (hot powers)

Caution regarding use of Hot Powers

- Authority to create or change rights of survivorship
- Authority to create, amend, revoke, or terminate a trust
- Delegate agent's authority
- Waive principal's rights under a joint and survivorship annuity including survivor benefit under a retirement plan
- Disclaim property, including power of appointment



Other documents that
can be exploited



Wills

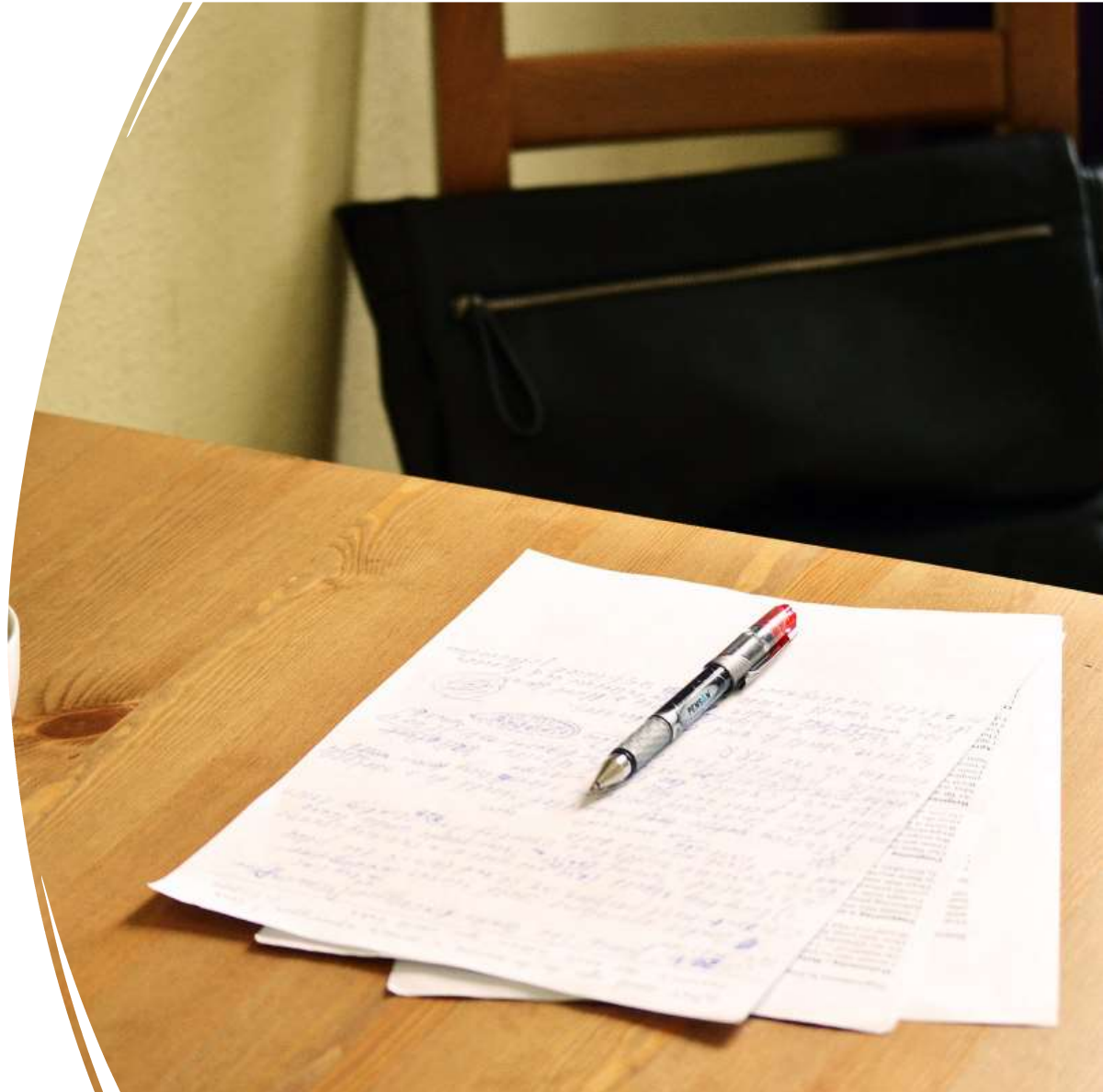
- Money or property taken before the testator dies - **“I was going to inherit it anyway.”**
- A person **signs** a will because of *undue influence*, duress, fraud, or misrepresentation.
- Will prepared that **does not reflect** the testator’s wishes.
- The testator’s signature is **forged**
- **Fiduciary changes or revokes** a will without authority to do so undermining testator’s estate plan
- **A personal representative fails to follow a court’s order** for distributing the estate.

Abusive use of Quit Claim Deeds

Destruction of a deed to prevent the owner from transferring property to someone else.

Stealing **the identity** of the owner and forging the deed.

Owner signs a deed due to fraud, misrepresentation, or **undue influence**.



Joint Owners/ Joint Accounts

A person named on a bank account only for convenience **takes** the money

Establishment of a joint ownership that does not reflect the older person's true wishes

Owner **gives up his or her interest** in property to other owner as a result of beneficiaries' actions





Scams

Older adults are increasingly the targets of scam artists on the telephone who use lies, deception, and fear tactics to convince older adults to send them money or provide personal account information

Family and caregiver rescue scams



Perpetrators are typically family members, caregivers, or friends

In asking for financial assistance, they may :

- use older person's credit
- Have them sign over a power of attorney for finances
- Forge their signatures on checks or other financial documents

How to avoid – difficult to stop but look for signs

- Senior's bills going unpaid
- Getting a new "best friend"
- Older person getting cut off from other family members or friends
- Showing a pattern of unusual banking activities
- Missing belongings



Contractor Fraud/ Home Improvement Scams

High pressure tactics for unnecessary or overpriced contracts

Once start often "find" other work that needs to be done urgently

Often in areas that victim can access themselves to inspect what is needed and what has been done

Shoddy work

May use threats of foreclosure/imposter inspectors, government officials or loan officers

How to avoid home improvement scams

Call the better business bureau to research the contractor

Confirm that a contractor is registered and bonded

Try to hire a local contractor

Know whether the contractor will be subcontracting your job and who will be doing the work

Get two to three written estimates before choosing a contractor

Get references and check their credentials by looking up the company

Get all estimates, contracts and warranty information in writing including a start and completion date, what work is to be done and materials to be used

Beware of contractors promising to pay or rebate portion of an insurance deductible as an incentive to contract

Get lien waivers from anyone that you pay for home repairs

Never pay with cash or checks made out to cash



What is Identity Theft

Identity theft is a crime that involves the illegal access and use of an individual's personal and/or financial information.

- May affect credit, banking, taxes, financial obligations, health care, etc.
- This information can be obtained in many ways including: unauthorized use, theft, dumpster diving, credit card skimming, phishing, hacking and scams.

Take Action

Identity theft is not only unauthorized credit card charges but can also be tax related, child identity theft, or medical Identity theft.

Not only results in financial loss but also damaged credit which can lead to feeling of anger, fear and frustration as well as stress while dealing with the aftermath of the identity theft.

It is critical that you take immediate steps to stop and repair the damage caused by identity theft.

Very often, perpetrators will dispose of the money immediately after taking it and may never be retrieved.

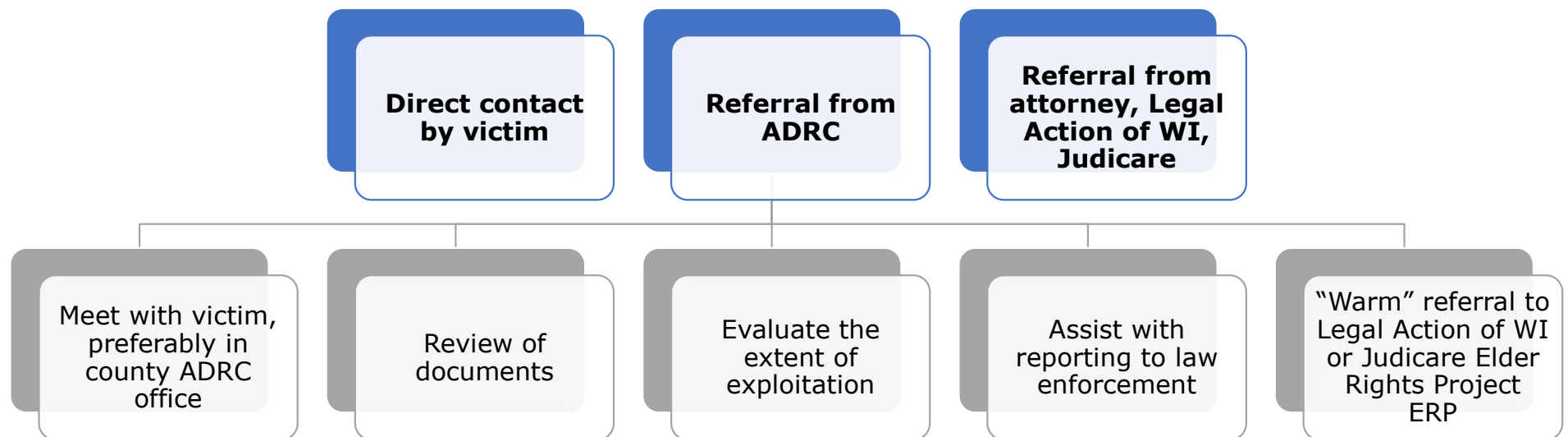
Recovery is about more than lost money. It is about taking steps to minimize the harm, protect future financial health and assets, and emotional recovery.

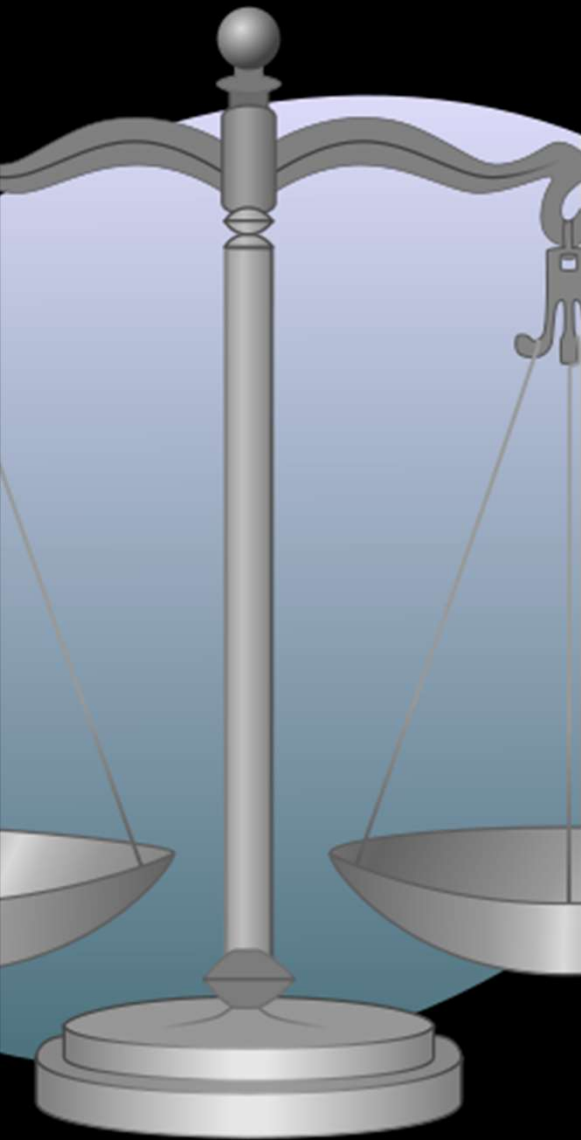


What can be done?

To More Effectively And Efficiently Serve Our Communities and disrupt the abusers grip on our communities' older adults?

How can it work?





**Advise
regarding civil
and criminal
remedies**

WAG

LEGAL SERVICES

Individual at Risk **Restraining Order**

Revocation of Power of Attorney

Redrafting of POA to remove abusive Agent or to include provisions to prevent re-victimization

Small Claims consultation/garnishment

Chapter 7 **bankruptcy** or Chapter 128, if necessary, as a result of exploitation

Victim service attorney

Other services on case-by-case basis

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Civil Causes of Action :

Breach of fiduciary duty

Undue or unjust enrichment

Fraud/duress

Contract law



Criminal Financial Exploitation

Theft, as prohibited in s. 943.20.

The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities. S. 244.16

Unauthorized use of an individual's personal identifying information or documents, as prohibited in s. 943.201

Unauthorized use of an entity's identifying information or documents, as prohibited in s. 943.203.

Forgery, as prohibited in s. 943.38.

Financial transaction card crimes as prohibited in s. 943.41.

Repair to extent possible

Review Credit Report

Fraud alerts

Credit freeze

Notifications to creditors

Close/reopen accounts

SS/medicare fraud report

Credit repair- dispute and
correct reports

REPORT



Adult Protective Services

Police

WI DATCP

USPIS

FTC

FBI-IC3

Assist with reporting and referrals



**COLLECTING
DOCUMENTATION**



REVIEW TIMELINES



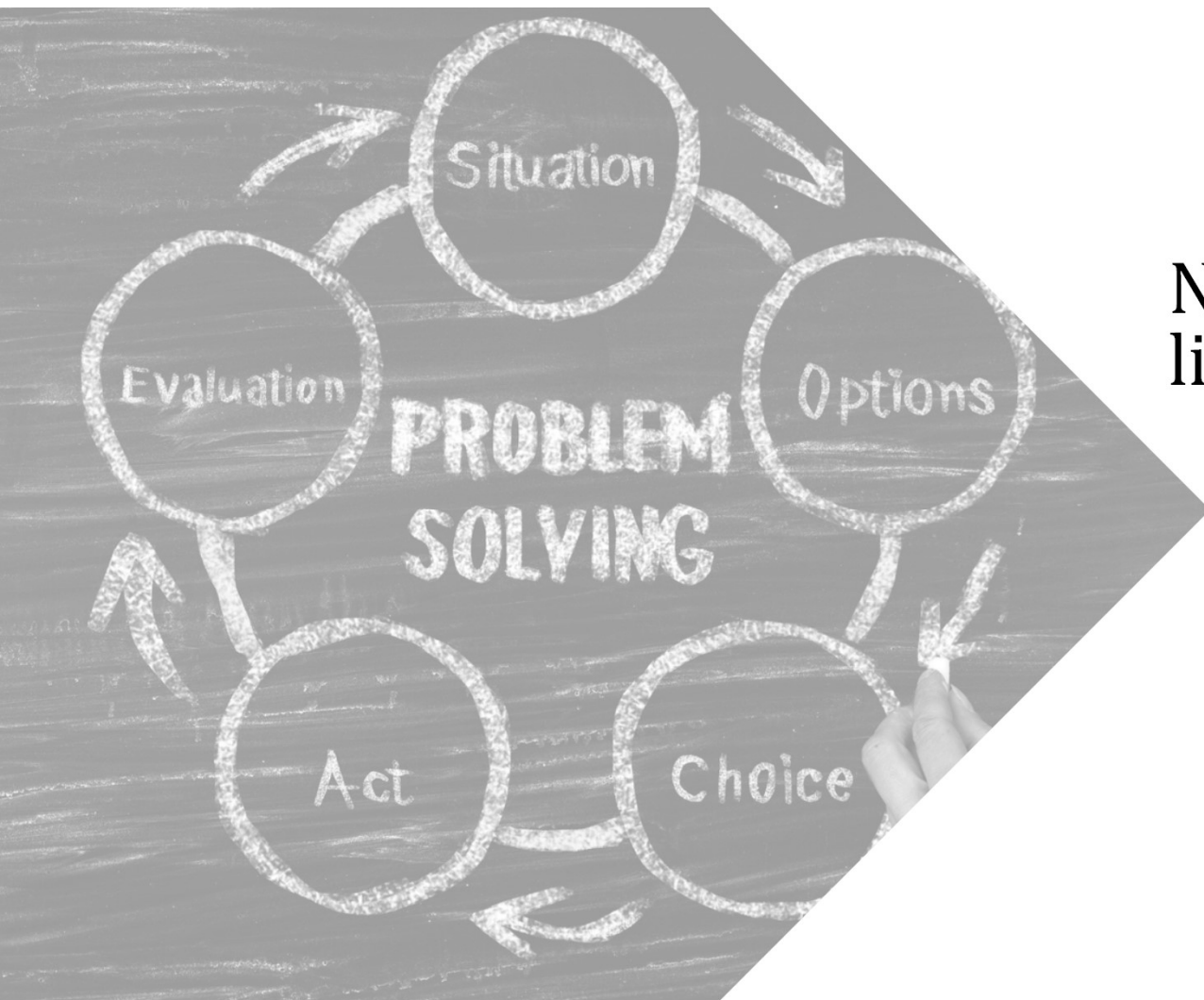
**REFERRALS TO ELDER
RIGHTS PROJECT OR
CIVIL ATTORNEY**



**MAKING REPORT TO
LAW ENFORCEMENT**



**FACILITATE
MEETINGS WITH LAW
ENFORCEMENT AND
CIVIL ATTORNEYS**



Not just criminal or civil litigation responses

- Family and Community Response
- Social Services interventions
- Adult Protective Services
- Multidisciplinary Responses



Family & Community Responses

- Majority of caregivers are family and friends
- Trusted family and friends can open doors to help
- Help from family and community to help fill the gaps in government benefits
- Housing
- Furniture
- Nutrition
- Personal care, maintenance, and transportation
- Companionship & social connections

Assessment of the person and
circumstances

Coordinating safety needs

Coordinating services

Coordinating material supports

Emotional Supports

Long Term Care Ombudsmen



**Social
Services
Interventions**

APS/Adult Protective Services

APS is designed to **protect** victim safety rather than punish perpetrators.

The **primary** APS investigative goal is to determine if reported allegations of abuse, neglect or exploitation (ANE) are valid.

Determine unmet **needs** for care, assistance, and protective and other services

Immediate **intervention** is offered if imminent threat to victim safety is discovered.

Those who have capacity retain the right to refuse any proposed service, treatment, or intervention

In many cases **collateral professionals and/or significant others** are needed to provide victim assistance and services.



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