

# **FINANCIAL EXPLOITATION AND THE USE OF CALIFORNIA UNDUE INFLUENCE SCREENING TOOL (CUIST) IN THE DISTRICT OF COLUMBIA**

**DR. SHEILA JONES, CHIEF APS  
CECELIA STEINER-SMITH, ASSISTANT  
ATTORNEY GENERAL, OAG FOR THE DISTRICT  
OF COLUMBIA,  
NOVEMBER 7, 2018**

# PROSECUTING LOCAL CRIMES IN THE DISTRICT OF COLUMBIA

U.S. Attorney's Office-D.C.	Office of the Attorney General for the District of Columbia
All Felonies	Juvenile crimes
Serious misdemeanors	Few adult misdemeanors (drunken driving and disorderly conduct)
	CPO violations

# **OAG'S ROLE IN APS CASES**

# OAG'S ROLE IN APS CASES

- ❖ represents APS in guardianship and conservatorship cases, ex parte orders, civil protection orders, and provisional protection orders.
- ❖ receives referrals from APS regarding *civil enforcement* of exploitation of elderly or vulnerable adults under the new law- Financial Exploitation of Vulnerable Adults and the Elderly Amendment Act of 2016.

**FINANCIAL  
EXPLOITATION OF  
VULNERABLE ADULTS  
AND THE ELDERLY  
AMENDMENT ACT OF 2016**

# D.C. NEW LAW CREATES ELDERLY PERSON AND REDEFINES VULNERABLE ADULT

“Elderly person” means a person who is 65 years of age or older as a protected class.

“Vulnerable adult” means a person:

- 18 years of age or older; and
- has 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.'S NEW LAW DEFINES UNDUE INFLUENCE

“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.

# THE NEW LAW ADDS FINANCIAL EXPLOITATION AS A CRIME

- ❖ The Act of 2016 changed the DC Code §22-930 by criminalizing *financial exploitation* committed by undue influence, sets penalties, and allows for restitution;
- ❖ Criminal Abuse and Neglect of Vulnerable Adults *became* Criminal Abuse, Neglect, and **Financial Exploitation** of Vulnerable Adults and the **Elderly**; and
- ❖ US Attorney's Office prosecutes these cases.



# AUTHORITY OF OAG DC

Office of the Attorney General for the District of Columbia has the authority to pursue *civil* penalties, injunctive relief, and to issue subpoenas under the Financial Exploitation of Vulnerable Adults and Elderly Amendment Act of 2016.

The civil enforcement provision authority is codified in Title 22 – the Criminal Offenses and Penalties section of the D.C. Code.

# OAG TOOLS TO ADDRESS FINANCIAL EXPLOITATION

The District has new tools to fight exploitation:

- ❖ impose fines of up to \$5000 per violation;
- ❖ revoke all permits, certificates, licenses issued by the district authorizing the person to provide services to vulnerable or elderly persons;
- ❖ investigate; and
- ❖ issue subpoenas

# OAG TOOLS TO ADDRESS FINANCIAL EXPLOITATION (CON'T)

- ❖ move forward with civil actions
- ❖ seek injunctive relief of victim which includes:
  - ❖ Temporary restraining order
  - ❖ freeze the offender's assets
  - ❖ obtain a court order to temporarily freeze elderly victim's assets and appoint a receiver or conservator for those assets.

# USE OF CUIST: HOW AND WHY

## WHY:

- ❖ Expansion of the law
- ❖ Exposure to the CUIST tool during a webinar entitled”  
Advanced Elder Abuse: The Impact of Undue Influence”

## HOW:

- ❖ Implemented
  - ❖ Social workers were trained by the OAG using the tool & the instructions;
  - ❖ Psychologists were trained separately

# **USE OF CALIFORNIA UNDUE INFLUENCE SCREENING TOOL (CUIST) IN APS CASES**

**APS social workers use CUIST to identify undue influence and the results are:**

- ❖ key to educating the court about how a client meets the undue influence definition in terms of:**
  - Client vulnerability**
  - Authority/Power**
  - Actions/tactics**
  - Unfair/improper Outcomes**

**CASE EXAMPLES WITH OUTCOMES  
USING THE CALIFORNIA UNDUE  
INFLUENCE SCREENING TOOL  
BY SOCIAL WORKER AND  
PSYCHOLOGIST**

# **CASE EXAMPLE ONE**

# USE OF CUIST BY APS SOCIAL WORKERS

**Resulted in the following:**

## **Vulnerability:**

- history of stroke, hypertension and cognitive impairments;
- she calls perpetrator instead of 911 if she needs help;
- he controls who lives in the household a renter/caretaker; and
- isolated her from family and friends.



# USE OF CUIST BY APS SOCIAL WORKERS (CON'T)

## **Influencer Authority/Position of Power:**

- Perpetrator took control of the client's finances by changing the beneficiaries of the trust. He became her agent in a power of attorney;
- He has a key to her house;
- Perpetrator took control of the client's finances by changing the beneficiaries of the trust;
- He became her agent in a power of attorney; and
- He has a key to her house.

# USE OF CUIST BY APS SOCIAL WORKERS (CON'T)

## Actions or Tactics:

- perpetrator administers client's medications;
- perpetrator makes himself indispensable by being the only person who provides her with food and other necessities;
- perpetrator threatens to abandon the client unless she does as he demands; and
- perpetrator boasts to others that he has had sex with the **90** years old client, and he is **only** 49.

# USE OF CUIST BY APS SOCIAL WORKERS (CON'T)

## Unfair or Improper Outcomes:

- Economic losses
  - perpetrator collects the client's tenant's rent for his own use;
  - Perpetrator sold client's automobile and the money from the sale were not put in her account;
  - Client originally designated her church as a recipient of her real property upon her death; and
  - Perpetrator changed the recipient from the church to himself.

# **CASE EXAMPLE TWO**

# USE OF CUIST BY APS PSYCHOLOGIST

**The Psychological narrative suggested the following outcomes as it relates to Undue Influence:**

- isolation by the daughter who took client to live in an unfamiliar environment – her apartment away from client's home and neighborhood as well as friends;
- control by the daughter of her mother's money by becoming her mother's agent in her power of attorney;
- vulnerability of client because of dementia related to excessive drinking and substance abuse; and
- Exploitation by daughter by taking over her mother's, and paying no rent or utilities.

# **CONTACT INFORMATION**

**Dr. Sheila Jones, Chief of APS  
Department Human Services  
District of Columbia**

**Cecelia Steiner-Smith, AAG  
Office of the Attorney General for the  
District of Columbia**