

Scams Targeting People with Cognitive Impairment

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 JANUARY 23, 2025

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King County Prosecutor's Office Elder Abuse Project

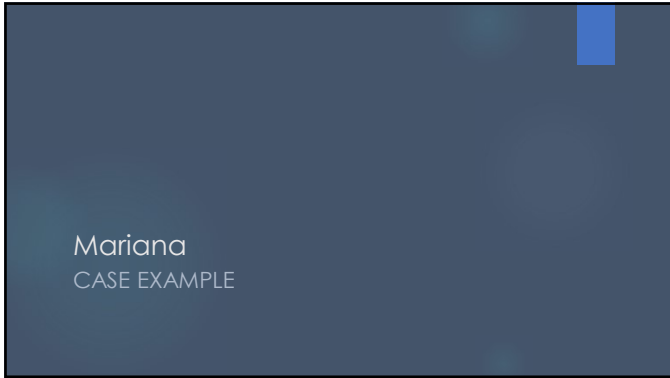
- ▶ 3 full-time prosecutors
- ▶ 2 financial analysts
- ▶ Part-time advocate
- ▶ Prosecute cases of elder financial exploitation, neglect, physical abuse, sexual assault, and homicide
- ▶ Train first responders, medical community, and public
- ▶ Work to improve systemic response to elder abuse

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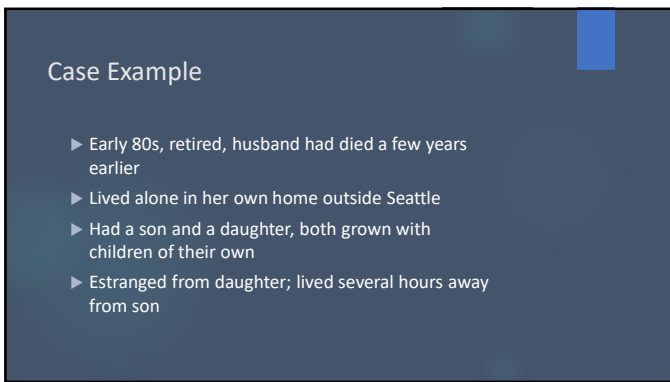
Agenda

- ▶ Case Example
- ▶ Financial Exploitation and Scams of Older Adults
 - ▶ Scams by Trusted Persons
 - ▶ Scams by Strangers -- In-Person
 - ▶ Scams by Strangers -- Online/Phone
- ▶ Dementia and Cognitive Capacity
- ▶ How You Can Help

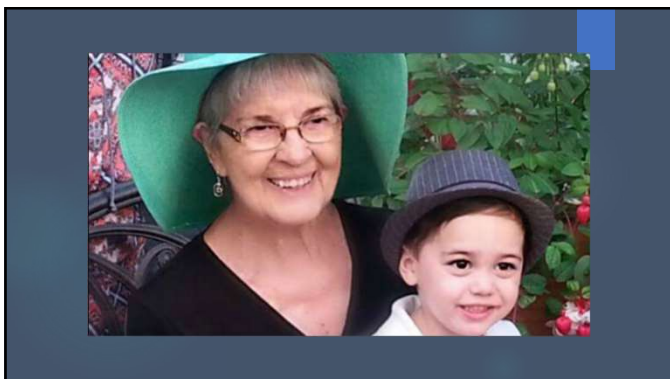
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Case Example

- ▶ Meets Janet Bauml through neighbor
- ▶ Bauml is a single mother with two teenage kids
- ▶ Has small home organization business, barely making ends meet
- ▶ Substantial credit card debt
- ▶ Charming, kind, empathetic to Mariana

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Case Example

- ▶ Janet pursues friendship
 - ▶ Is soon stopping by every day
- ▶ Shortly thereafter, Mariana's daughter is diagnosed with breast cancer
 - ▶ Mariana begins to help granddaughter Amy provide care
- ▶ Within months, Mariana's daughter dies
- ▶ Mariana is heartbroken

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Case Example

- ▶ By this time, Janet has cultivated close, mother-daughter relationship with Mariana
- ▶ Begins to help Mariana with her bills
- ▶ Becomes her trusted confidante
- ▶ Mariana signs Power of Attorney making Janet her agent

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Case Example

- ▶ Three years into friendship, Janet begins to ask Mariana for loans. Tells her:
 - ▶ Needs money to feed and clothe her children
 - ▶ Son suffers from drug addiction, needs money for his treatment
 - ▶ She'd been abused as a child, needs money for therapies and medical treatment
 - ▶ Needs money to start a new business

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Case Example

- ▶ Promises Mariana she will pay her back with:
 - ▶ Large insurance settlement she'll be receiving from car accident
 - ▶ Profits from new company she is working for

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Case Example

- ▶ Over time, Janet becomes increasingly emotional, dramatic, with her requests for loans from Mariana
- ▶ Mariana agrees to each request, writing checks to Janet for the various amounts she requests
- ▶ By the next year, Mariana has drained most of her accounts lending money to Janet
- ▶ Mariana tells no one

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Case Example

- ▶ By the following year, Mariana is out of money and her house needs a new roof. Relying on Janet's promises to repay her, she has the work done.
- ▶ When payment is due, calls Janet, begs her to repay her so she can pay for roof
- ▶ Janet stops returning Mariana's calls
- ▶ Desperate, Mariana breaks down and tells her granddaughter Amy

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Case Example

- ▶ Amy learns that over three-year period, Mariana wrote 25 checks to Janet totaling over \$217,000
 - ▶ Despite Janet having power of attorney, Mariana wrote the checks
- ▶ Learns Mariana has taken out credit card advances and reverse mortgage to "lend" more money to Janet
- ▶ Amy calls 911 and makes report

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Financial Exploitation and Scams Involving Older Adults

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Elder Financial Exploitation

- ▶ The illegal use of an older person's money, property, or resources for someone else's benefit, including:
 - ▶ Misuse of assets by a fiduciary (power of attorney, accountant, guardian)
 - ▶ Stealing an older person's checks, credit cards, cash, valuables
 - ▶ Undue influence (perpetrator manipulates victim into "consenting" to give them their assets)
 - ▶ Scams (fraudulent or deceptive acts or operations)

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Abuse of Power of Attorney

- Agent who uses principal's assets for themselves without specific authorization in the POA commits Theft
- Is often the easiest type of theft case to prove

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Scams by Trusted Persons

- ▶ Trusted others take elder's assets based on false promises to:
 - ▶ Invest their money
 - ▶ Become romantically involved with/marry them
 - ▶ Repay them
 - ▶ Perpetrator asks for loans, lies about the purpose and ability to repay them

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Scams by Strangers--In-Person

- ▶ Strangers target the elder in person and deceptively promise to:
 - ▶ Repair homes, driveways, cars
 - ▶ Perform landscaping
 - ▶ Invest elder's assets
 - ▶ Have a romantic relationship with the older adult

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Typical Contractor Scam

- ▶ Perpetrators approach home that appears in disrepair or is owned by elder
- ▶ Offer to repair roof, driveway, siding, etc.
- ▶ Perpetrators continue to charge victim for additional "necessary repairs", and insist on only being paid in cash
- ▶ Result is extensive damage to the home and tens of thousands, even hundreds of thousands gone.

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Car Bumper Repair Scams

State v. Georgio Stevens

- ▶ Selected older or disabled adults in business parking lots
- ▶ Damaged bumper without victims' knowledge, told them to drive the car was dangerous, then offered to repair damage on the spot
- ▶ Chatted with and charmed victims so their skepticism was lowered
- ▶ Took debit or credit cards to process payment, used cards for own purpose without victims' knowledge
- ▶ Charged with 28 counts of theft, ID theft, car theft
- ▶ 17 known victims, of whom 16 were 60 or older
- ▶ Pled guilty to 17 counts of Theft

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Scams by Strangers--Online/Phone

- ▶ Strangers target the elder on-line or by phone and obtain assets by lying about:
 - ▶ Opportunity to win or make money
 - ▶ Romantic interest in/marriage of the older adult
 - ▶ Older adult being a victim of fraud or hacking
 - ▶ Impersonator scams
 - ▶ "Grandchild"
 - ▶ "FBI," "FDIC," "Social Security"
 - ▶ "Bank Fraud Department"
 - ▶ "Law Enforcement"

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AARP: Online/Phone Scams

Common Methods:

- Phishing - emails, calls, texts to steal sensitive data
- Fake social media profiles
- Phony businesses, charities, PACs
- False Claims – threats of arrest, promises of prizes
- Computer Pop-Ups – malicious links and software
- Robocalls

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AARP: Online/Phone Scams

Common Methods:

- Lead Lists
 - Rosters of people who have fallen victim to cons and, as such, are potentially soft targets for more. Criminals swap and sell what they call "sucker lists."
- Secrecy – perpetrators usually insist targets keep silent about their instructions
- Persuasion – flattery, charm, threats of violence

www.aarp.org/money/scams-fraud/

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Elder Financial Exploitation is a Growing Crisis

- ▶ 83% of U.S. household wealth is held by people over 50 years old
- ▶ Financial exploitation costs older Americans \$28.3 billion per year
- ▶ Of that \$28.3 billion, 72% is stolen by someone the elder knows

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2023 Internet Crime Complaints - FBI

- ▶ **101,068** reports of internet financial crimes against people 60+
- ▶ Total losses: **\$3,427,717,654**
 - ▶ Increase of 11% over 2022
 - ▶ Average dollar loss per victim: **\$33,915**
 - ▶ **5,920** of those victims lost more than **\$100,000**

Source: FBI Elder Fraud Report, 2023

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For every one case of elder financial exploitation that is reported,

1

another forty-three cases never come to light.

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Source: NYS Elder Abuse Prevalence Study, Weill Cornell Medical College, NYC Department for the Aging, Lifespan, (2011)

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Why Involved Professionals Often Don't Report

- ▶ Difficulty in determining whether it's financial exploitation or free choice
 - ▶ Lack of training on:
 - ▶ What constitutes financial exploitation
 - ▶ Dementia
 - ▶ Mandatory reporting obligations
- ▶ Fear of intruding on elder's privacy
- ▶ Fear of losing elder's business
- ▶ Fear of liability

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New York State Financial Exploitation Study

- ▶ 50% of victims were largely unaware of their mistreatment
- ▶ Only 2% of the reports were made by victims

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Why Victims Often Don't Report

- ▶ Fear of losing independence
- ▶ Fear of retaliation by perpetrator
- ▶ Lack of knowledge or disbelief that exploitation is occurring
- ▶ Emotional dependence on, love for perpetrator
- ▶ Belief that if they report, they will lose all hope of getting their money back
- ▶ Dementia

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Mariana Cooper
CASE EXAMPLE

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Criminal Investigation

- ▶ Detective obtains
 - ▶ Search warrants
 - ▶ For suspect's and victim's bank records
 - ▶ To investigate reasons Bauml gave Mariana for needing money
 - ▶ Janet's medical records
 - ▶ Son's drug treatment billing records
 - ▶ Accident reports involving Janet
 - ▶ Janet's employment records
 - ▶ Mariana's medical records
 - ▶ Capacity evaluation of Mariana

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Dementia and Cognitive Capacity

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Dementia and loneliness are the two primary risk factors for elder financial exploitation.

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Almost 50% of people with dementia experience some form of abuse.

Cooper, C., Selwood, A., Blanchard, M., Walker, Z., Blizard, R., & Livingston, G.

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Cognitive Capacity

- Clinical term -- not a legal determination
- Includes ability to:
 - Think clearly
 - Recall accurately
 - Organize thoughts
 - Express thoughts
 - Plan and execute actions
- Varies by complexity of the task to be done or decision to be made

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Dementia and Financial Capacity

- ▶ The ability to handle one's finances may be first skill to decline in the course of dementia
- ▶ One year before diagnosis with Alzheimer's Disease, people are:
 - ▶ 17.2% more likely to be delinquent on their mortgage payments
 - ▶ 34.3% more likely to be delinquent on their credit bills

▶ "The Financial Consequences of Undiagnosed Memory Disorders," Gresenz, Mitchell, et al, Federal Reserve Bank of New York, May 2024.

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Why Cognitive Capacity Is Important to Prosecutors

- ▶ Consent is most common defense raised in elder financial cases
 - ▶ "I was the only one who took care of her. She wanted me to have all of her money."
 - ▶ "He loved me more than his other kids. He wanted me to inherit his estate."
 - ▶ "The money was a loan. I was going to pay him back."

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Why Capacity Is Important to Prosecutors

- ▶ We can't determine whether an elder consented unless we know whether they had capacity to do so

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Dementia and Competency to Testify

- ▶ Many people with a dementia diagnosis are able to understand and answer questions, and can testify effectively
- ▶ People with dementia often retain memory of emotional/traumatic events

▶ Wigglesworth, A. & Mosqueda, L. (2009) "People with Dementia as Witnesses to Emotional Events." NCJ 234132, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/234132.pdf>

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Primary Care Providers May Miss Cases of Dementia in Their Patients

- ▶ May lack training on diagnosing dementia
 - ▶ May be over-reliant on Mini-Mental Status Exam (MMSE)
- ▶ Patients with dementia often do not recognize it in themselves
- ▶ Lack of good treatment options
- ▶ Patients with higher education, verbal skills can mask it more easily

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Case Example

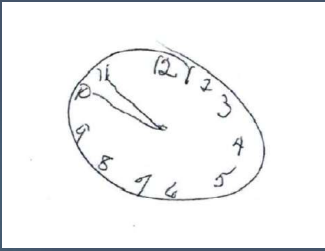
MARIANA COOPER

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Capacity Evaluation of Mariana

- ▶ Conducted in May 2012
 - ▶ 19/30 SLUMS, 11/18 Frontal Assessment Battery
 - ▶ Deficits in clock drawing
 - ▶ No insight into her impairment
 - ▶ Diagnosis: Dementia NOS

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"Ten minutes after eleven"

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What the Investigation Found

- ▶ Accident reports: none
- ▶ Earnings information from Janet's employer: no large payments likely
- ▶ Janet's bank records: Mariana's money was spent on trips, restaurants, clothes, spiritual healing
- ▶ Janet's credit reports: lots of debt, unpaid credit cards
- ▶ Janet's medical records: only medical treatment was for underactive thyroid, had insurance
- ▶ Janet's son's drug treatment records: did receive treatment and it was paid for by the State

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We File Charges

- ▶ 7 Counts of Theft First Degree
- ▶ 5 Counts of Theft Second Degree
 - ▶ Sentencing aggravators

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What We Had to Prove

- ▶ Each specific charged check was obtained by the defendant "by color or aid of deception"
- ▶ Defendant "intended to deprive"
- ▶ Value exceeded \$5000/\$750

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State's Witnesses

- ▶ Mariana Cooper
 - ▶ Deposition not needed
- ▶ Mariana's granddaughter, Amy
- ▶ Capacity evaluator
- ▶ Detective
- ▶ Patrol officer
- ▶ Financial analyst

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Defense Witnesses

- ▶ Janet's son
 - ▶ Did need drug treatment, mother paid
- ▶ Janet's daughter
 - ▶ Janet was a good mother
- ▶ Mariana's treating physician
 - ▶ Noticed no dementia in Mariana
 - ▶ On cross:
 - ▶ No knowledge of capacity screening tools
 - ▶ Records showed had ignored red flags

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Defense Claims

- ▶ Mariana gave the money willingly (consent)
- ▶ Janet did intend to one day pay it back
- ▶ Janet didn't lie about everything
- ▶ Mariana didn't rely on Janet's lies (loved her so much she would have given her the money anyway)

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Verdict

- ▶ Guilty of 10 counts of Theft 1 and 2
 - ▶ Sentencing aggravators
- ▶ Sentenced to standard range sentence of 43 months

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Lessons Learned from Mariana's Case

- ▶ The importance of looking beyond yes
 - ▶ When an older adult has made unusual, substantial gifts of their assets, we must look beyond apparent consent, for:
 - ▶ Deception by perpetrator
 - ▶ Cognitive impairment of older adult
 - ▶ Undue influence of elder

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Lessons Learned

- ▶ Need for:
 - ▶ Trained, dedicated elder abuse detectives and prosecutors to handle these cases
 - ▶ Multidisciplinary, coordinated response to these cases
 - ▶ Better training for health care providers on capacity screening, elder financial exploitation
- ▶ Elder financial exploitation is devastating

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As a Result of the Exploitation, Mariana:

- ▶ Was forced to declare bankruptcy
- ▶ Had to move into an assisted living facility
- ▶ Lost trust in others
- ▶ Lost trust in herself

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Elder Financial Exploitation Is Devastating

- ▶ Decimates income and ability to live at previous standard of living
- ▶ May cause victim to move into long-term care
- ▶ May require victim to go on Medicaid
- ▶ Fractures families
- ▶ Results in loss of dignity

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▶ Even mild abuse, neglect, or exploitation increase premature deaths in the elderly by 300%.
▶ Mark Lachs, MD

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Improving Our Response to Scams

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King County's Elder Abuse Multidisciplinary Team

- ▶ APS, law enforcement, prosecutors, AAA case managers, capacity evaluators, financial analysts, geriatricians to staff difficult cases of elder abuse, neglect, and (most often) financial exploitation
- ▶ Pays for capacity evaluations, money managers for victims, other victim needs
- ▶ Coordinate evaluations, investigations, services
- ▶ Specialize in cases where abuse/exploitation continues despite reports to APS, law enforcement

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New Collaboration Between Federal and Local Law Enforcement Agencies in Western Washington

- ▶ Increased focus on elder scams by FBI and US Attorney's Office
- ▶ Increased collaboration between local and federal investigators and prosecutors

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What You Can Do

- ▶ Consider:
 - ▶ the possibility that financial exploitation, abuse or neglect of your older/vulnerable patients may be occurring
 - ▶ financial exploitation, abuse, and neglect as a possible explanation for what you are seeing

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What You Can Do

- ▶ IDENTIFY Red Flags:
 - ▶ Overdue bills
 - ▶ Missed appointments
 - ▶ Decline in self-care
 - ▶ New "friend" or romantic interest who is unusually involved in elder's life
- ▶ Significant changes in elder's financial activity:
 - ▶ Sending bank wires
 - ▶ Purchasing large amounts of gift cards
 - ▶ Purchasing precious metals, bitcoin
 - ▶ Large cash withdrawals
 - ▶ Secretive phone calls, emails

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What You Can Do

- ▶ Document your concerns:
 - ▶ Signs of cognitive impairment
 - ▶ Physical signs of abuse or neglect
 - ▶ Missed or late appointments
 - ▶ Behavior of caregiver
 - ▶ Patient's statements
 - ▶ Caregiver's statements

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What You Can Do

- ▶ Assess/screen
 - ▶ If cognitive impairment concerns
 - ▶ Any testing you conduct will be vitally important to a criminal case
 - ▶ MMSE is of limited value

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What You Can Do

- ▶ REPORT suspected elder exploitation
 - ▶ *Adult Protective Services
 - ▶ *Law Enforcement
 - ▶ Internet Crime Complaint Center (IC3)
 - ▶ www.ic3.gov
 - ▶ FTC
 - ▶ https://reportfraud.ftc.gov/assistant
 - ▶ Victim's bank

*Mandatory Reporting laws differ by state

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We Can Do Something About Scams

- ▶ Many involve a local actor
- ▶ FBI is investigating an increasing number of cases
- ▶ Victims can be protected
 - ▶ Family, APS, AAA, elder law attorneys, can assist by
 - ▶ Educating victim on scams, money management
 - ▶ Changing victim's email, phone numbers
 - ▶ When appropriate:
 - ▶ Managing victim's finances
 - ▶ Filing for conservatorship

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How wonderful it is that nobody need wait a single moment before starting to improve the world.
Anne Frank

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FEEL FREE TO CONTACT US

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[Thanks to OVW and NCALL](#)

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