

**RECOGNIZING
&
REPORTING
CRIMES AGAINST
VULNERABLE ADULTS**

SULLIVAN COUNTY TENNESSEE

DISTRICT ATTORNEY'S OFFICE

ADA EMILY HUTCHINS

**For law
enforcement
and other
professionals**

GOALS

- Review laws that protect vulnerable adults
- Discuss legal situations that come up regularly when working with vulnerable adults
- Prepare ourselves to respond if we see abuse, neglect, or exploitation of a vulnerable adult

LIMITS

- Won't give legal opinions on specific situations outside of Sullivan County
- Won't discuss details of pending criminal cases
- Won't show graphic photographs or videos without a warning first

THE TEAM: “VAPIT”

VULNERABLE ADULT PROTECTIVE INVESTIGATIVE TEAM

Mandated by Tennessee Law – one per judicial district

Patterned after Child Protective Investigative Team “CPIT”

Multi-agency and multi-disciplinary team

Meets once a month to review all reported cases of abuse

Prevents cases from falling through the cracks

Connects APS, law enforcement, veterans' affairs, ombudsmen, etc., creating opportunities to solve problems

THE RULES

WARNING



LAW AHEAD

T.C.A. § 39-15-501

Definitions

- **ELDERLY ADULT**
- **VULNERABLE ADULT**
- **CAREGIVER**
- **RELATIVE**
- **NEGLECT**
- **CONFINEMENT**
- **ABUSE**
- **PHYSICAL HARM**
- **AGGRAVATED NEGLECT AND ABUSE**
- **SEXUAL EXPLOITATION**
- **FINANCIAL EXPLOITATION**

§ 39-15-501 Definitions

“**ELDERLY ADULT**” means a person seventy (70) years of age or older

“Vulnerable Adult”

a person 18 or older who is unable to **fully** manage their own resources, carry out all or a portion of the activities of daily living,

or

fully protect against neglect, exploitation, or hazardous or abusive situations without help, **because of an intellectual or physical dysfunction.**

§ 39-15-501

Definitions

“**CAREGIVER**” means a relative or person who has a legal duty to provide care for an elderly or vulnerable adult, whether such duty arises by the relative or person's claim or conduct, contract, or in any other fashion.

“Caregiver” includes:



A person who is married to, dating, or romantically involved **with a caregiver** and resides with or has regular contact with the elderly or vulnerable adult.

§ 39-15-501

Definitions

“Relative”

includes spouse, parent & child (step, grand, adoptive, foster) siblings, aunt, uncle, niece, nephew:

who resides or has frequent contact with an elderly or vulnerable adult, and

knows or should know that they are unable to care for themselves or their finances.

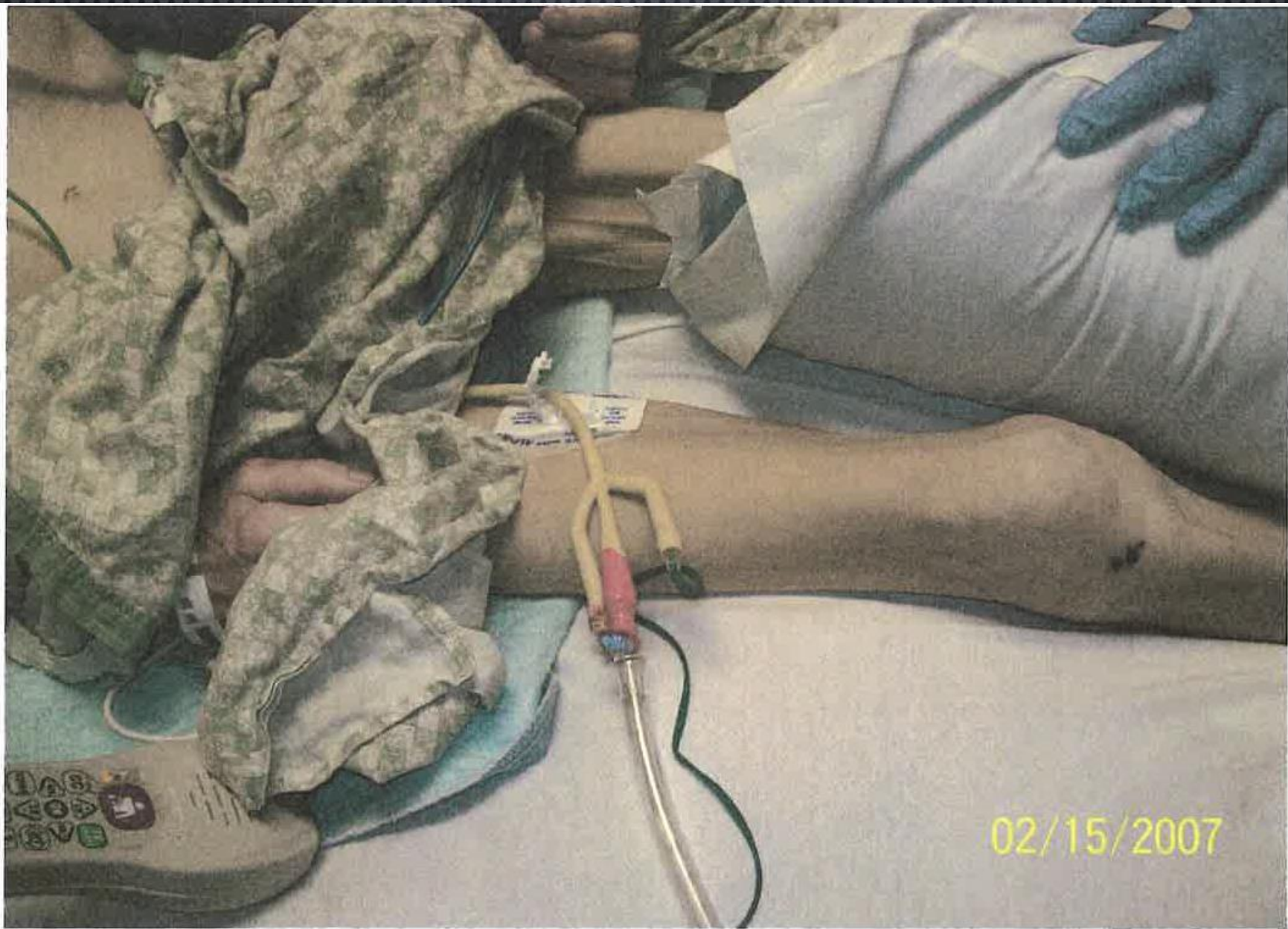


PHOTOS



TRACY
HOLT

48 years old
6 feet tall
84 lbs.



02/15/2007

§ 39-15-501

Definitions

“NEGLECT” means

- The failure of **A CAREGIVER** to provide the care, supervision, or services necessary to maintain the physical health of an elderly or vulnerable adult,
 - Including food, water, clothing, medicine, shelter, medical services, basic hygiene, or supervision that a reasonable person would consider essential for the well-being of an elderly or vulnerable adult;
- The failure of **A CAREGIVER** to make a reasonable effort to protect an elderly or vulnerable adult from abuse, sexual exploitation, neglect, or financial exploitation by others; or

§ 39-15-501

Definitions

Neglect, continued:

- Abandonment; or
- Confinement.
- Neglect can be the result of repeated conduct or a single incident.

§ 39-15-501

Definitions

“CONFINEMENT” means

- the knowing and unreasonable restriction of movement of an elderly or vulnerable adult **by a caregiver**;
 - Includes, but is not limited to:
 - Placing a person in a locked room;
 - Involuntarily separating a person from the person's living area;
 - The use of physical restraining devices on a person; or
 - The provision of unnecessary or excessive medications to a person;

**Does not include the use of the methods or devices used in a licensed facility in a manner that conforms to state and federal standards governing confinement and restraint.

§ 39-15-501 Definitions

- “ABUSE” means the infliction of physical harm.
- “PHYSICAL HARM” means an action, regardless of gravity or duration, that:
 - Causes pain or injury; or
 - Would cause a reasonable person to suffer pain or injury

§ 39-15-501

Definitions

“SEXUAL EXPLOITATION” means an act committed **upon or in the presence of** an elderly or vulnerable adult, without effective consent, committed for sexual arousal or gratification, or to disseminate to others by a person who knew or should have known the act would offend or embarrass a reasonable person.

SEXUAL
EXPLOITATION
INCLUDES:

sexual contact;

exposure of perpetrator's
or elderly/ vulnerable
adult's genitals;

exposure to sexual
acts;

an intentional act or
statement to shame,
degrade, humiliate, or
otherwise harm the
personal dignity of an
elderly or vulnerable
adult.



Sexual Exploitation does **not** include any act intended for a valid medical purpose, or reasonably intended to be a normal caregiving act, such as bathing by appropriate persons at appropriate times.

§ 39-15-501

Definitions

“Financial Exploitation”
means:

The use of **deception, intimidation, undue influence, force, or threat of force** to obtain or exert unauthorized control over property with the intent to deprive;

The **breach of a fiduciary duty** by the person's guardian, conservator, or agent under a power of attorney which results in an appropriation, sale, or transfer of the elderly or vulnerable adult's property; or

The act of obtaining or exercising control over property, without receiving the elderly or vulnerable adult's **effective consent**, by a caregiver or accomplice committed with the intent to benefit the caregiver or other third party

THE CRIMES

§ 39-15-510

**Abuse
of an elderly or
vulnerable adult**

IT IS AN OFFENSE FOR ANY PERSON TO
KNOWINGLY ABUSE AN ELDERLY OR
VULNERABLE ADULT.

A VIOLATION AGAINST AN **ELDERLY** ADULT IS A CLASS E FELONY

A VIOLATION AGAINST A **VULNERABLE** ADULT IS A CLASS D FELONY

§ 39-15-511

Aggravated Abuse of an elderly or vulnerable adult

- The abuse results in **serious psychological injury** or **serious physical harm** (Class C felony)
- A **deadly weapon** is used (Class B felony)
- abuse involved **strangulation** (Class B felony)
- The abuse results in **serious bodily injury** (Class B felony)

Bristol Tennessee Police Department
Statement of Facts

Full Name _____ D.O.B. _____ 1962
Address _____ Home # 423 - -
_____ Work # - -
Social Security _____ Driver's License # _____
Place of Employment _____

IT was asleep and all the sudden something started punching me in the face and pulling my hair. I woke up and it was my daughter Angela. She was screaming and hollering and went outside and got into it with the neighbors. She had pulled out 2 big chunks of hair and punched me on the left side of the head. She is drunk.

~~BAAB~~



PHOTO



§ 39-15-507

**Neglect
of an elderly or
vulnerable adult**

It is an offense for any person to knowingly neglect an elderly or vulnerable adult, so as to adversely affect the person's health or welfare

ELDERLY ADULT = CLASS E FELONY

VULNERABLE ADULT = CLASS D FELONY



VIDEO

03/10/2014 18:11:13 MON



Camera2

§ 39-15-508

Aggravated Neglect of an elderly or vulnerable adult

- The neglect results in **serious physical harm**
(Class C felony)
- The neglect results in **serious bodily injury**
(Class B felony)

**FINANCIAL
EXPLOITATION
§ 39-15-502**

- It is an offense for any person to knowingly financially exploit an elderly or vulnerable adult.
- Punished same as theft (depends on amount) but one classification higher.

OTHER CRIMES

Theft

- Even with “permission” it may still be theft

Burglary

- Did the suspect enter with the intent to commit a felony, theft or assault in the home?

Assault

- Domestic if it is a family member or a person who resides with the vulnerable adult

Home Improvement Fraud

- The impact can be devastating
- Look for evidence that the vulnerable adult was targeted

FINANCIAL EXPLOITATION

- Power of Attorney (POA) does **NOT** prevent a suspect from being charged with exploitation
 - Purpose of POA is to provide for the vulnerable adult's care and needs
 - “Fiduciary Duty”
 - Watch for transfer of title & quitclaim deeds

FINANCIAL EXPLOITATION

- What if the perpetrator “Got Permission”?
 - Truly voluntary?
 - Duress or threats?
 - Capacity?
 - Fraudulent means used to gain permission?

POWER OF ATTORNEY (POA) EXAMPLE

A son had a Power of Attorney for his mother

- While mom sat in her own home with no food or medicine, in her own feces, her son used her money at adult bookstores and traveling.

Scams

- Home improvement contracts
 - Was money obtained up front?
 - What services were promised?
 - What was actually done?
 - Was there intimidation used to obtain payment?
 - Can you establish that the vulnerable adult was targeted?
- Bogus investments
 - Was fraud used to entice the vulnerable adult into investing with the suspect?

ADULT PROTECTIVE SERVICES (APS)

- APS guidelines determine when they can investigate and open a case
- Whether APS investigates or opens a case is not a conclusion about whether a crime occurred

SPECIAL CONCERNS FOR LAW ENFORCEMENT

- VICTIMS WHO OFTEN CANNOT COMMUNICATE WHAT HAS HAPPENED TO THEM
- VICTIMS FEEL ASHAMED THAT THEIR CARETAKER TOOK ADVANTAGE OF THEM
- VICTIMS WHO MAY HAVE MOBILITY PROBLEMS IN GETTING TO COURT OR TO SERVICES NEEDED
- VICTIMS WHOSE HEALTH AND MENTAL STATUS MAY BE DECLINING
- VICTIMS WHO ARE THREATENED TO NOT TELL

WORKING RELATIONSHIP WITH APS & LAW ENFORCEMENT OFFICERS - TEAM EFFORT

- DA'S OFFICE, LAW ENFORCEMENT OFFICERS AND APS WANT TO PROSECUTE CRIMES.
- PUT AWAY THE BAD GUYS TO HELP GIVE VICTIMS PEACE OF MIND AND KEEP THEM SAFE.
- **SHARE STATEMENTS**
 - VICTIM, WITNESSES, WORKERS
 - INCLUDING APS WORKER
- **SHARE CONTACTS**
 - MEDICAL PROVIDERS, FAMILY MEMBERS, LAY WITNESSES, ETC
- **SHARE REPORTS**
 - HOSPITAL RECORDS, DOCTORS VISITS, BANK & FINANCIAL RECORDS, ETC

SPECIAL PROBLEMS WITH VULNERABLE ADULT VICTIMS

- Victim is unable to cooperate through fear or threats
- Victim suffers from dementia
- Victim does not want to prosecute because often suspect is a family member
- Victim loses memory or dies before trial
 - The victim's death will not stop prosecution if evidence exist of the crime

Bristol Tennessee Police Department
Statement of Facts

Full Name [REDACTED] D.O.B. [REDACTED] 1962
Address [REDACTED] Home # 423 - -
Work # - -
Social Security [REDACTED] Driver's License # [REDACTED]
Place of Employment [REDACTED]

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~~BA~~

- CHARGING CRIMES -

HOW? WHEN?

- Most cases should be charged by True Presentment to the Grand Jury
- Immediate arrest may be warranted if:
 - victim is not safe - the abuse is continuing
 - defendant is a flight risk
 - other special circumstances are present.

Orders of Protection

Restraining Orders

Other Civil Remedies

- important while case is being investigated.
- keeps suspect away from the victim (hopefully).
- research what the consequences are – what option is best for the situation?

IF YOU ENCOUNTER THE VICTIM OF ABUSE, NEGLECT, OR EXPLOITATION

Report it!

§ 39-15-508 “Duty to Report Neglect or Financial Exploitation of Elderly or Vulnerable Adult; crimes and punishment”

- Any person having reasonable suspicion that an elderly or vulnerable adult is suffering or has suffered abuse, sexual exploitation, neglect, or financial exploitation shall report such neglect or financial exploitation to adult protective services.

IF YOU ENCOUNTER THE VICTIM OF ABUSE, NEGLECT, OR EXPLOITATION

- Take photographs if possible
- Note the victim's appearance of competence
- Note the victim's condition
 - Are they mobile?
- Note the demeanor of the victim
 - Scared, unable to communicate, unable to answer questions with the suspect close by?

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